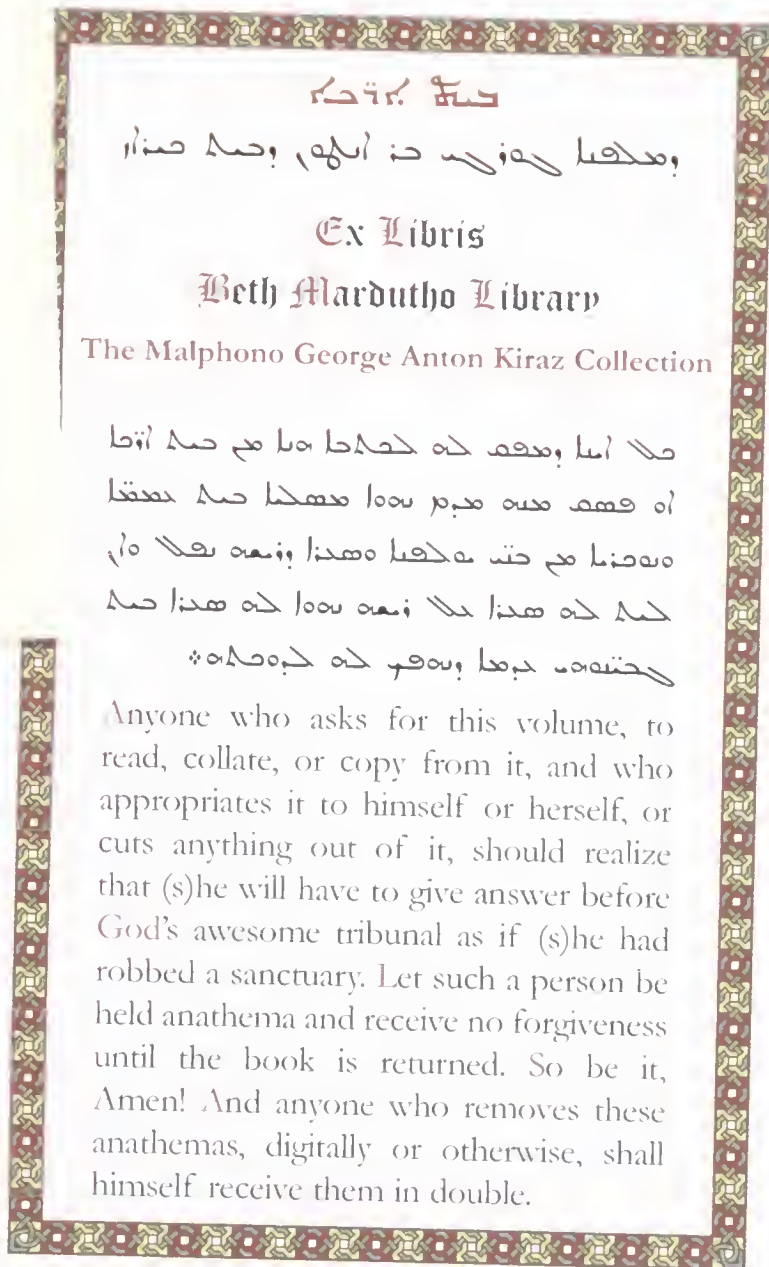


THE PASTORAL CARE OF THE SYRO-MALABAR CATHOLIC MIGRANTS



JAMES ARAMPULICKAL

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**The Pastoral Care
of the Syro-Malabar Catholic Migrants**

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James Arampulickal



No. 170

Oriental Institute of
Religious Studies India Publications
Vadavathoor, Kottayam 686 010
Kerala, India

Imprimatur

Mar Simon Stock Palathara
Bishop of Jagdalpur
Bastar, M.P., India

Published by

Oriental Institute of Religious Studies India Publications
Vadavathoor, Kottayam - 686 010
Kerala, India

First Published: May 1994

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ISBN 81-86063-25-2

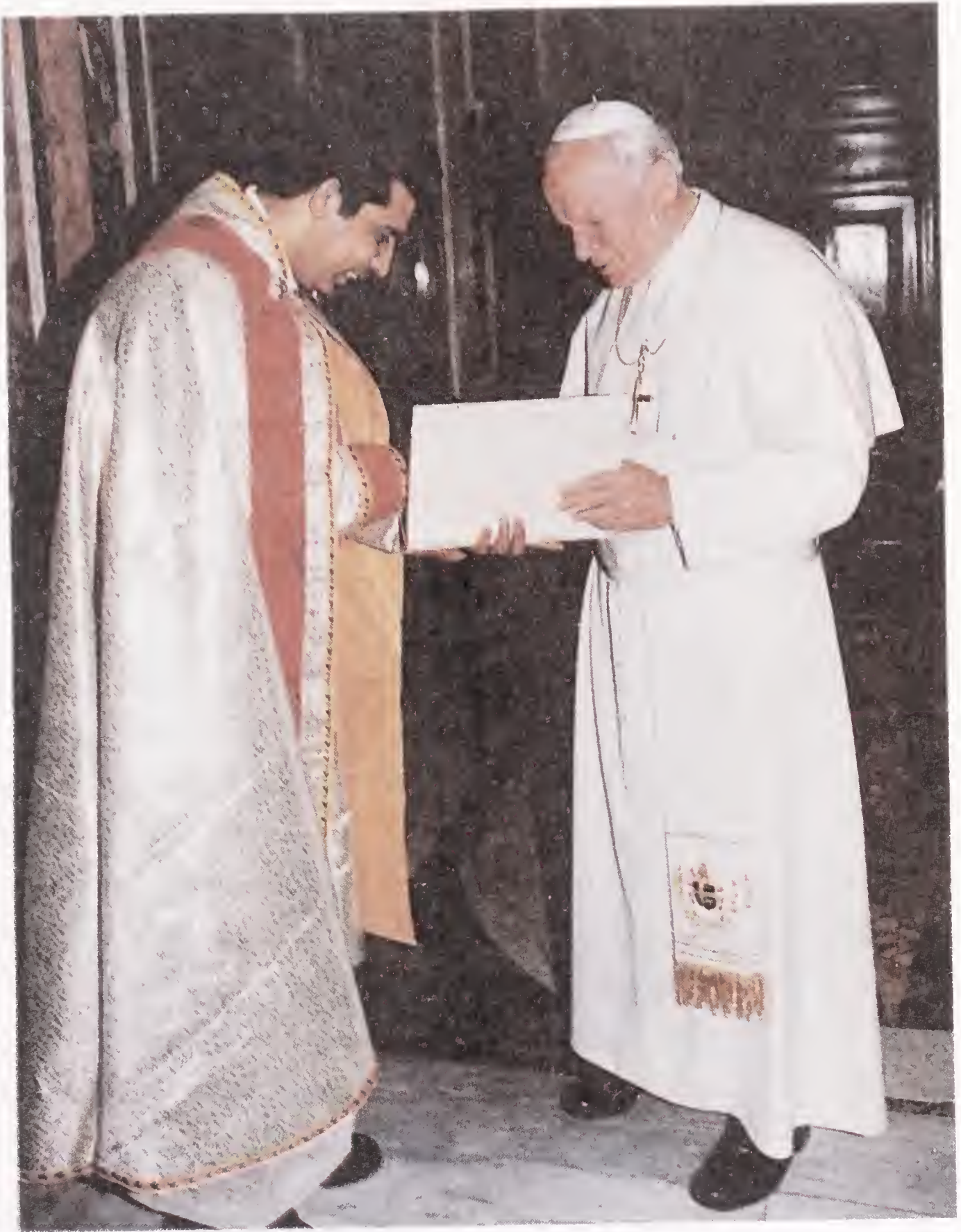
Printed at

Alwaye Press
Alwaye, 683 101
Kerala, India

DEDICATION



*In loving memory of
Mar Paulinus Jeerakath,
the late Bishop of Jagdalpur
and
my beloved father Ouseph Mathew*



The Author presents his Thesis to the Holy Father

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Acknowledgements

I wrote this thesis in partial fulfillment of the programme for a doctoral degree in Canon Law. As I have completed my work, it is my present duty to express my indebtedness to those who have assisted me in diverse ways in the completion of this work.

First and foremost, I express my deep gratitude to Prof. Velasio De Paolis, the director of this dissertation, for whose wise guidance, constant encouragement and valuable corrections this dissertation is a reality. I would like to place on record my thankfulness to Msgr. Youssef Sarraf and Prof. Dario Composta, for their friendliness and willingness to help as the relators of this thesis.

I thank all the professors of the faculty of Canon Law at the Urbaniana University and the Pontifical Oriental Institute. During my studies of both Latin and Oriental Canon Law I profited very much from their scholarship. I remember with gratitude and appreciation His Excellency Mar Paulinus Jeerakath, the late Bishop of Jagdalpur, who allowed me to pursue the courses of Canon Laws.

I express my love and gratitude to the Sacred Congregation for the Oriental Churches for granting me a scholarship for my study and stay in Rome. This work would not have been a reality if not for the kind service of the personnel of the different libraries in Rome. I am thankful to all of them, particularly to the librarian Dr. Hannelore Valier of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People. I remember with gratitude also Rev. Lucas Vithuvettical and Rev. Thomas Mathasseril, who patiently went through the manuscript and made valuable observations. I thank in a very special way Rev. Francis J. Marini and Sr. Mary Rousseau SSND who have taken meticulous and painstaking care to improve the language.

My sincere thanks to the Institut De Presse Missionnaire, Paris for the financial assistance for the publication of this book, and to the

Oriental Institute of Religious Studies, Vadavathoor, India for undertaking the publication of this book and also to the Manager and Staff of Alwaye Press for their help in printing. I also express my gratitude to my friends in Collegio Maria Immacolata, Collegio Damasceno and elsewhere, who encouraged and helped me in various ways to complete my studies. Above all, I thank Almighty God for His abundant blessings during my studies in Rome. May His blessings make this work fruitful.

Bishops House

Jagdapur

1 May, 1994

James Arumpulickal

Abbreviations

AA	- Apostolicam Actuositatem
AAS	- Acta Apostolicae Sedis
AA.VV.	- Auctores Varii, Various authors
ACO	- Archivum Congregationis pro Ecclesiis Orientalibus
AG	- Ad Gentes
Ap	- Appendix
APF	- Archivum Congregationis de Propaganda Fide
ARSI	- Archivum Romanum Societatis Jesu
art. cit.	- article cited
ASC	- Acta Sacrae Congregationis
ASS	- Acta Sanctae Sedis
ASV	- Archivum Secretum Vaticanum
BO	- Bibliotheca Orientalis
BPP	- Bullarium Patronatus Portugalliae
c., can., cans.	- canon, canons
CA	- Crebrae Allatae
Cfr.	- Confer
CCEO	- Codex Canonum Ecclesiarum Orientalium
CD	- Christus Dominus
CIC	- Corpus Iuris Canonici
CLSA	- Canon Law Society of America
CO	- Christian Orient
COD	- Conciliorum Oecumenicorum Decreta
CP	- Congregationi Particolari
CS	- Cleri Sanctitati

DISM	- Delegazione India: Soriani del Malabar
DPME	- Directorium de Pastoralibus Ministerio Episcoporum
DSS	- Documenti della Santa Sede
ed., eds.	- edition, edited, editor, editors
ES	- Ecclesiae Sanctae
GE	- Gravissimum Educationis
GS	- Gaudium et Spes
f., ff.	- folium, folia
IPPF	- Ius Pontificium De Propaganda Fide
LEF	- Lex Ecclesiae Fundamentalis
LG	- Lumen Gentium
ME	- Monitor Ecclesiasticus
NCCB	- National Conference of Catholic Bishops
NCE	- New Catholic Encyclopedia
OC	- Orientalia Christiana
OCA	- Orientalia Christiana Analecta
OCP	- Orientalia Christiana Periodica
OE	- Orientalium Ecclesiarum
op. cit.	- opere citato
OT	- Optatam Totius
p., pp.	- page, pages
PA	- Postquam Apostolicis Litteris
PB	- Pastor Bonus
PCCICOR	- Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo
PCCICR	- Pontificia Commissio Codici Iuris Canonici Recognoscendo
PG	- Patrologia Graeca
PL	- Patrologia Latina
PMC	- Pastoralis Migratorum Cura

PO	- Patrologia Orientalis
po	- Presbyterorum Ordinis
PUG	- Pontificia Universitas Gregoriana
PUL	- Pontificia Universitas Lateranensis
PUU	- Pontificia Universitas Urbaniana
r	- recto (front page)
REU	- Regimini Ecclesiae Universae
SC	- Sacrosanctum Concilium
SC (IOC)	- Scritture riferite nei Congressi - Indie Orientali e Cina
SOCG	- Scritture Originali riferite nelle Congregazioni Generali
l.	- tomus
UR	- Unitatis Redintegratio
vol., vols.	- volume, volumes

General Introduction

The migration movement has always been present in the human history. The earliest records of history indicate that migration and resettlement were common occurrences in the life of man. The collapse of frontiers, which were insurmountable yesterday, are providing the new opportunity for millions of people to take the path of migration. Obviously human mobility is nothing new in the history of mankind. It has always been, and it is to this which great civilizations owe their origin.

But contemporary migration movements have been influenced by various factors such as unemployment, technological progress, extraordinary development of communication media, the immense disproportion in the economic, social, political and religious situations, as well as tyranny of rulers. These elements force countless families and individuals to seek new houses and a serene environment different from the one indigenous to them. Therefore, in the contemporary world, it is difficult to find a country or nation whose social structure is uniform and monolithic. Every society contains a multitude of different social, cultural and ethnic groupings.

Migrants who have had to give up their homeland, their possessions and affections, inevitably carry with them the characteristics and memories of their own people as an indelible identity which cannot be renounced or denied, and which is not always well-accepted in the new environment. Experience has shown that the inability of expression in other than the mother language, and the elimination of ritual, cultural and spiritual patrimonies of the past not only damage the conscience, memories, etc., but also cancel the religious convictions and practices.

However, when we analyze the history of the migratory movement we also find that it has been one of the important elements in the development of Christian faith. This movement contributed very much to the evangelization of the world and to the dissemination of Christ's truth

among the nations. Affirming this reality, the Pontifical Commission's Letter *The Church and Human Mobility* states: "In many cases human mobility has been a decisive or at least it has had a considerable influence on the birth and growth of new Churches" (n.9).¹ Or, in other words, one can say together with Pope Paul VI: "It is the result of their living presence and witness in the midst of new people that forms new churches. So they are the real seeds and the evangelizers" (n.21).² In the light of the past experience and the pressing demands of today, the Church cannot "remain idle in the shadow of the altars--if she did so, she would neglect her providential Godly mission of shaping an entire man, and by it, her constant cooperation in laying a strong foundation for society".³ Therefore the Second Vatican Council addressed the problem of migration with new vigour and urged Church authorities to provide all means necessary to safeguard the religious and moral life of the migrant faithful.

Admitting the positive signs of these people on the move Prof. Velasio De Paolis exposes the pitiful story of the migration movement from his personal experience. He wrote in one of his articles: "It was also very often a sad and painful story, not only on account of the suffering that followed its path, but also because of the lacerations and lack of understanding within the ecclesiastical community itself, between Bishops and Bishops, between priests and priests within the same dioceses. Some times because of pastoral insensitivity there have been real breakdowns. We may say it: particular Churches have not always been prepared to accept migrants as children. The number of those who have lost their faith for this reason is incalculable. Unfortunately this unhappy experience is not yet finished."⁴

¹ Pontificia Commissione per la Pastorale delle Migrazioni e del Turismo, Lettera circolare alle Conferenze Episcopale *Chiesa e Mobilità Umana*, AAS 70 (1978) 357-358; *Chiesa e Mobilità Umana*, Documenti della Santa Sede dal 1883 al 1983, Centro Studi Emigrazione, Roma 1985, 725-747.

² PAUL VI, Apostolic Exhortation *Evangelii Nuntiandi*, 8 December 1975, AAS 68 (1976) 19-20.

³ CARD. G. FERRETTO, "French Bishops Call for Changed Attitude to Migrants," in *Migration News* 2(1970) 21.

⁴ V.DE PAOLIS, "La Pastorale della mobilità umana nella formazione teologica nelle Università e nei Seminari", in *On the Move* 39 (1983) 30.

The Second Vatican Council's Decree on Eastern Catholic Churches *Orientalium Ecclesiarum* declares: "Steps should therefore be taken for the preservation and enlargement of all the individual Churches throughout the world, and so parishes and their own hierarchy should be set up wherever the spiritual good of the faithful requires it" (OE n.4). In *Christus Dominus*, the decree on Bishops in the Church, the Council goes a step further and recommends: "Accordingly, where there are believers of different rites, the bishop of that diocese should make provision for their spiritual needs either by providing priests of those rites, or special parishes, or by appointing episcopal vicars, with the necessary faculties... And if the Apostolic See judges that, on account of some special circumstances, none of these alternatives are practicable, a special hierarchy should be established for each different rite" (CD n. 23).

The concern of the Church towards all migrants, including Orientals, is documented in the variety and depth of its teaching statements. There are a number of decrees, apostolic letters, statements, instructions, constitutions, papal pronouncements, etc., dealing with many facets of human mobility. As a point of reference we can not neglect the various pronouncements of Pope John Paul II in his encyclicals and speeches in view of this movement. Finally we have in our hands *a sole Corpus of Canon Law*⁵ in order to protect the rights of those who are involved in this phenomena. They are: i. The Code of Canon Law of the Latin Church (1983); ii. The Apostolic Constitution *Pastor Bonus* (1988); iii. The Code of Canons of the Eastern Churches (1990).

Summing up of all above-mentioned contexts, the Syro-Malabar Church and her migrants argue continuously for appropriate pastoral care

⁵ In the document promulgating the new Code for the Oriental Churches, *Sacri canones*, the Pope called it "the final crowning piece of the magisterium of the Second Vatican Council" after the *Codex Iuris Canonici*, that is the Code of Canon Law of the Latin Church (1983) and the Apostolic Constitution *Pastor Bonus* (1988) on the Roman Curia. Hence, he declared in the Synod, "I consider it an integral part of the sole *Corpus iuris canonici*, made up of the above mentioned three documents, promulgated over a span of the above mentioned three documents. Then he continues, "Before this *Corpus* there arises spontaneously the suggestion that a proper comparative study of both Codes should be encouraged by Canon Law faculties." Cfr. *L'Osservatore Romano*, 27 Oct. 1990, p.4 (English Weekly Edition, 5 November 1990, p.4).

according to the provisions envisaged by the Second Vatican Council and both Codes of Canon Law. There are millions of Syro-Malabar Catholic migrants who have already left their homeland and now living in many parts of India and abroad. Some of them have settled there since two or three generations. This flow is still continuing. Many of them are losing their faith because of the lack of pastoral care. The words of Pope John Paul II in his encyclical *Laborem Exercens* is equally applicable in the life of these migrants: “Man has the right to leave his native land for various motives--and also the right to return--in order to seek better conditions of life in another country: above all it generally constitutes a loss for the country which is left behind. It is a departure of a person who is also a member of a great community united by history, tradition, culture”(n.23). Therefore, the *main scope* of this study is to expose the various possibilities given by both Codes of Canon Law to provide for the pastoral care of the Syro-Malabar Catholic migrants and also to help the bishops of India in their daily government of the People of God in which they assure the glory of God and the salvation of souls (CIC can. 1752).

Relationship between Pastoral care of migrants and Rite

With the help of this dissertation we make use of this work to deal with the relationship between the pastoral care and the migration of Catholics belonging to the Syro-Malabar rite. This pastoral care and the rite may be expressed in terms of pastoral relationship, that is to say, how far the various priestly apostolates, or in other words, bishops, priests, chaplains or missionaries for migrants, have to do their service for the Christian life and spiritual salvation of these migrants. Of course, this relationship does not in itself establish an essential bond between pastoral care and *Rite*.⁶ This is because a single person belonging to the Syro-Malabar rite may find sufficient help for his Christian life even from other rites where he lives, an environment which is completely different from his rite. But it is not the same in the case where there is a sufficient number of Syro-Malabar Catholic migrants; the usual pastoral care is

⁶ “Il rito è un patrimonio, inestimabile, ma non è una persona giuridica con doveri e diritti, mentre tale è la *Ecclesia sui iuris*, con a capo una ben determinata persona fisica, la quale ‘in omnibus negotiis iuridicis eiusdem personam gerit.’” I. ZUZK, “presentazione del *Codex Canonum Ecclesiarum Orientalium*,” *Monitor Ecclesiasticus* 115 (1990) 602.

very helpful by means of their own priests, bishops, parishes and eparchies in order to preserve their patrimony and to improve the Christian way of life. It will help these faithful to give themselves a sense of community in the new country and, moreover they could satisfy their spiritual needs and desires. Therefore, in this thesis we will discuss those Syro-Malabar Catholic migrants who live either in India or outside in such a way that the pastoral care of them is considered as ordinary pastoral care in order to preserve their patrimony intact and the progress of their rite.

Terminology

There is no common consensus about the exact connotation of the words *emigrants*, *immigrants*, *migrants* as used in the principal sources, and consequently this can cause a certain confusion for the reader of this dissertation. But the terms are used here indicate those who live and work temporarily or permanently outside their homeland or their own community of origin according to the provision as already given by the Instruction *De Pastoralis Migratorum Cura* n.15. However, we use only the word *migrants* in this thesis, except in the principal sources, in order to get more consistency in the usage of this term. In this manner we exclude all other categories of human mobility as described in the Church documents such as exiles, refugees, sailors, etc.

Method and Sources

The methodology employed in this work has been dictated by the nature of the thesis. For this purpose we adopt the historico-juridico and pastoral method. It is historical since it treats the history of the Syro-Malabar Church and at the same time presents most of the important principal sources which led to the legislation of the pastoral care of migrants. It is juridical because we attempt to relate the issues of the pastoral care of migrants to both Codes of Canon Law. Again, it is pastoral because we will attempt to show the constant preoccupation of the Church which is manifested explicitly in her documents.⁷ Finally it is

⁷ CASTILLO LARA, "Some Reflections on the proper way to approach the Code of Canon Law," in *Communicationes* 17 (1985) 273.

personal because this work is the result of my personal experience as a seminarian⁸ and later as a missionary priest. This experience encourages me to study this problem and now it becomes a reality.

In addition, this work to a great extent is a comparative study between the new Oriental Code and the Latin Code as desired by the Holy Father.⁹ Through the comparative study the Holy Father intended to show the God's providence in the life of the Church and especially those things "which foster greater knowledge of everything which constitutes the legitimate *"in unum conspirans varietas"* of the ritual wealth of the Catholic Church."¹⁰

The recent elevation of the Syro-Malabar Church to the rank of Major Archiepiscopal Church will make a tremendous change in the future life of the Syro-Malabar Church. In the Official Bulletin of the Holy See, we can find the decision of this erection of the Holy Father that came out on 16 December, 1992. But the official publication of this erection came only on 29 January, 1993.¹¹ With this new erection the following changes came into effect in the life of the Syro-Malabar Church: i. As an *Ecclesia sui iuris*, the Syro-Malabar Church has elevated to the rank of a Major Archiepiscopal Church (CCEO cans. 27, 151); ii. Laws concerning Patriarchal Churches or Patriarchs are also applicable to this Major Archiepiscopal Church and her Major Archbishop (CCEO can. 152); iii. The Synod of Bishops came into effect in the place of Syro-Malabar Bishops' Conference (CCEO cans. 102-113), and as a consequence the Catholic Bishops Conference of India has to be known as the Assembly of Hierarchs of the three Indian Churches according to the norm of canon 322 of CCEO.¹²

⁸ Cfr. p. 41, footnote 149.

⁹ "Before this *Corpus* there arises spontaneously the suggestion that a proper comparative study of both Codes should be encouraged" Cfr. *L'Osservatore Romano*, 27 October 1990, p.4 (English Weekly Edition 5 November 1990, p.4).

¹⁰ *L'Osservatore Romano*, 27 October 1990, p.4.

¹¹ Cfr. *Bollettino della Sala Stampa di Santa Sede*, 29 January 1993, 42 (1993) 9; *L'Osservatore Romano*, 27 Gennaio 1993, p.1 (English Weekly Edition, 3 February 1993, p.12).

¹² Cfr. GEORGE MADATHIKANDATHIL, *The Catholic Bishops' Conference of India: an Interecclesial Assembly* (unpublished doctoral thesis), Rome, 1989.

We think that this is the first attempt to systematically present this material in the context of the pastoral care of Syro-Malabar migrants in the Indian context. For arriving at this purpose we made use of all available documents, for example, documents of the Second Vatican Council, different documents issued by Popes and Roman Dicasteries, Papal pronouncements, Synodal interventions, the report of the Apostolic Visitor, various studies regarding human mobility, etc., in order to present an up-to-date treatment of the material.

Division and Contents

The dissertation is divided into four chapters with an introduction and a general conclusion. The first chapter narrates the history of the Syro-Malabar Church and the problem of migration. For this purpose, after a brief presentation of the sociological and anthropological background of the Malabar Church, we analyze its history together with its origin, its rise and decline and its growth up to the present day.

As we have already seen the migratory movement, both voluntary and forced moving of people has become a universal phenomenon of our time. Like all the people in the world, the Indians took part in this movement in search of better opportunities in work and good financial condition within India and abroad. The presence of these migrants in various parts of India, especially today, urges the Indian Churches to take adequate initiatives in order to provide appropriate pastoral care according to the various conditions and nature of these migrants. Therefore, very briefly treating with the phenomenon of migration, we make use of this chapter to analyze the migratory movement from and within India. Giving emphasis to the internal migration among the Syro-Malabar migrants, we would like to demonstrate further the problems, dangers and challenges faced by these migrants, the report and statistics of the Apostolic Visitor, various interventions of their prelates particularly in the Synodal Halls, and finally we analyze the letter of Pope John Paul II to the bishops of India to find a solution for this existing problem.

Avoiding all kinds of confusion regarding the word *Rite*, the second chapter of this thesis tries to give a clear notion of the *Concept of Rite*. Formerly the term *Rite* was used not only in the Church but also in secular fields. Correspondingly *Rite* has taken different meanings, such as lit-

urgy, customs, ceremonies, way of living, liturgical rules, nations, community and traditions. This evolution continued until the publication of the encyclical letter *Orientalium Dignitas* of Pope Leo XIII in which he recognized the *sui iuris* character of different ecclesiastical communities. Following this encyclical there was a continuous attempt in the Universal Church to give a precise meaning to the *Concept of Rite*. CIC 1917 and later the motu proprio *Postquam Apostolicis Litteris* of Pope Pius XII were the first attempts in this process. The Second Vatican Council tried to give a better notion; however, there was still a lack of clarity because of the confusion in the usage of the term in the various conciliar documents. Later the Code Commission almost solved this problem, particularly in the codification period of the Code of Canon Law 1983. However, a clear notion of the *Concept of Rite* came into existence only through the promulgation of the new Oriental Code of Canon Law in 1990 in which the notion of *Rite* and *Church* are clearly stated in canons 27 and 28. Thus, with the help of this chapter, we can see how the age-long confusion regarding the *Concept of Rite* was solved in the Universal Church. Followed by this argument, we treat very briefly the different structures of the three Indian *ecclesiae sui iuris*, on the national level.

As Pope Paul VI has rightly remarked, “The pastoral care of immigrants has always attracted the maternal attention and solicitude of the Church.”¹³ Therefore, we, then analyze in the third chapter all the main sources regarding the pastoral care of both Latin and Oriental migrants.¹⁴ As for all the migrants in the Universal Church, these documents have a particular importance in the life of the Syro-Malabar migrants too. The encouragement given by Pope John Paul II to the Bishops of Syro-Malabar and Malankara Churches resounds and highlights its importance in the life of these migrants.¹⁵ Moreover, they are the

¹³ “Pastoralis migratorum cura semper ad se convertit maternas catholicae Ecclesiae sollicitudines” Cfr. PAUL VI, Apostolic Letter Motu Proprio *Pastoralis Migratorum Cura*, AAS 71 (1969) 701.

¹⁴ As we know the sources pertaining to the Latin Church are applicable only for the Latin Catholics (CIC can.1). However, the studies of such documents help us to interpret the various sources in relation to the pastoral care of Oriental migrants too, and at the same time it give us sufficient knowledge about these sources. And in this way we can understand the maternal and pastoral concern of the universal Church for her migrant children.

main documents in the Church's legislation with regard to human mobility from which the *sole Corpus of Canon Law* gathers and gives directives for the pastoral care of migrants. Therefore, an examination of the 1983 Code of Canon Law and the new Oriental Code is not possible without a detailed study of these documents.

Lastly, the following extract of the fourth chapter of the thesis examine the *Codex Iuris Canonici of 1983 and the Codex Canonum Ecclesiarum Orientalium* on the basis of various Church documents in order to see specific ecclesiastical structures and offices for providing the pastoral care of Syro-Malabar Catholic migrants. As we know, the necessity of the specific pastoral care arises from the particular situations in which these migrants live. Besides, the ritual, cultural, linguistic differences between the migrant faithful and the place of arrival always get in the way of making use of the ordinary pastoral care. In this situation migrants need a special pastoral structure in order to protect and preserve their ritual, cultural and linguistic patrimony. To make these dispositions available, we present specific structures and offices envisaged by both Codes of Canon Law with respect to the universal, national, diocesan and parish level. Thus in this study we make use of all the materials related to our theme in order to demonstrate the various provisions of the Universal Church to provide pastoral care of migrants, including the Syro-Malabar Catholic migrants.

Finally, the study terminates with a general conclusion and with some practical suggestions for the pastoral care of Syro-Malabar Catholic migrants in the context of *one sole Corpus of Canon Law*.

¹⁵ "I can assure you that there will be rendered accessible to these faithful all the helps which laws of the Church foresee, particularly by the prescriptions, which you yourselves have cited, of the Decree *Christus Dominus*. It is well known how, after the Council, the Church wished to revise the Apostolic Constitution *Exsul Familia*, and my predecessor Paul VI in *Pastoralis Migratorum Cura* did not omit any effort to place every spiritual help at the disposal of emigrants. The common concern of the Bishops of the emigrants' places of origin and the Bishops of their new homes requires a harmony of relationships and a spirit of fraternal collaboration. It is my most earnest desire, and my conviction, that the Episcopal Conferences, whether of India or the regional ones, will find a way to develop a just manner of providing for this need." Cfr. JOHN PAUL II, *Allocutio ad sacros Praesules ritus Malabarici et Malankarensis occasione visitationis <<Ad limina>> in Arce Gandulfi coram admissos: de liturgica renovatione*, AAS 72 (1980) 1029; DSS n. 2662.

CHAPTER ONE

History of the Syro-Malabar Church and Problems of Migration

Introduction

The Syro-Malabar Church is the community of the St. Thomas Christians that remained in the Apostolic communion ever loyal to the Roman Pontiff. The existence of a very ancient Christian community, especially in Malabar, is admitted by historians both Catholic and non-Catholic. This community was of one Faith and one Rite until the arrival of the Portuguese missionaries, but afterwards the story of this Christian community took a very different form. Throughout this short history we would like to narrate the main events in the life of the Syro-Malabar Church. For this purpose, after a brief narration of the sociological and anthropological background, the history of this Church will be traced through its various periods of existence such as the origin, the Persian and Chaldean rule, the Latin rule, the establishment of an indigenous hierarchy and her progress up to the present day. Followed by this historical narration, we will try to analyze the phenomenon of migration, the migratory movement in India, both internal and external, especially among the Syro-Malabar Catholics.

1. The Sociological Factor

1.1. Malabar

Malabar¹ lying in the Southwestern region of India, was known to the entire inhabited world for many centuries. Especially famous were her spices and other Oriental commodities that were held in high esteem

¹ Malabar signifies *the Land of Mountains*.

in the Middle East and Europe. Malabar lies between the western Ghats in the East and the Arabian Sea in the West and extends from Cape Comorin in the South to the northern border of the Kasserkode district in the North. Malankara and Malanadu are also situated in the same geographical area.

In the early centuries of the Christian era, Malabar was a part of the Chera Kingdom,² and later Malabar was divided into many small principalities.³ The early inhabitants were predominantly Dravidians with their own primitive religion.⁴ The Brahmins migrated to Malabar around 300 B.C. and adopted the Dravidian culture and the language of the new land and became known as Nambudiris or Malabar-Brahmins.⁵ The Nairs, next in the social status, were the ruling class and military men of Malabar. All others were considered to be low castes.⁶

Even before the first century A.D., there were extensive trade connections between the Malabar coast and the Western world, especially Roman and Persian, with the merchants of empires, who traded their wine and pottery for the pepper, pearls and precious stones of the country. The commercial relations with the Persian empire was through the Persian Gulf. Charax-Spasinu at the head of the Persian gulf was the western depot of the Indian trade from which Indian articles were transported up the Tigris-Euphrates and then by land to the Mediterranean ports and made available in the Roman empire. Jews had diaspora settlements in both empires as well as in India.⁷ The peoples of Afghanistan played an important role as official agents in this international trade.

² Cfr. K.P.P. MENON, *A History of Kerala*, vol.1, Emakulam, 1924-1937. p.64 (henceforth, MENON); JAMES AERTHAYIL, *The Spiritual Heritage of the St. Thomas Christians*, Bangalore, 1982, p.11 (henceforth, AERTHAYIL).

³ MENON, op. cit., vol. I, p. 420.

⁴ MENON, op. cit., vol. III, p. 523.

⁵ MENON, op. cit., vol. III, pp. 27-136.

⁶ AERTHAYIL, *The Spiritual Heritage...*, op. cit., p. 11.

⁷ The existence of Jewish colonies in Kerala even before the time of Christ is asserted by all historians. The main centres of the Jewish colonies were Cranganore, Parur, Palayur, Quilon, Muttom, Chenot, etc. Connected with these Jewish centers there is a strange coincidence that the seven Churches founded by St. Thomas in South India are situated in or near these Jewish colonies. Cfr. S.S. KODER, *Kerala and her Jews*, Emakulam, 1965, p. 2; MENDELSSOHN SYDNEY, *The Jews of Asia*, London, 1920, p. 105.

The Parthian or Sassanian rulers preferred that the Babylonian Jews play this intermediary role rather than allow the Romans to take the route through Persian territory. The Jewish exilarch (religio-civic head) of Babylonia had his own family members as commercial agents in important trade centres. Jewish proselytizing and Christian evangelization also were being conducted along with their international trade activity.⁸

The recent discovery in 1930 and 1945 of Roman coins, especially the coins of Augustus Tiberius, Caligula, Claudius and Nero, gives clear evidence to the commercial relations of ancient Malabar with the West.⁹ According to the Fr. Placid J. Podipara, "the most authoritative writings on geography and trade such as Pliny's natural History (50-60), Periplus' maris Eritrea (60) knew South India with a minuteness of topography that would amaze the moderns."¹⁰ With the discovery of the periodic

⁸ JACOB KOLLAPARAMPIL, *Canonical Institutes of the Malabar Church* (Manuscript), Rome, 1989, p. 10 (henceforth, KOLLAPARAMPIL).

⁹ In 1930 in the suburb of Mambalam near to the Little Mount of Madras a coin of the Roman Emperor Augustus was found which modern historians date 14 A.D. In 1945 the excavations were made to the south of Mailapur in Ankamedu near the ancient port of Pondicherry. It was the first time in the history of Indian archaeology that a Roman trading station was discovered, begun at the time of Emperor Augustus and abandoned towards the end of the second century after Christ. Three periods could be distinguished in the remains found. In the first period, belonging to the first half of the first century after Christ, the buildings were of wood. Here numerous shards of Arretine ware (terra sigillata) were discovered to be of the highest category of metropolitan sigillata, (named after the chief place of origin, and found the town of Arezzo in Italy), and exported only up to 50. Some of the pieces had the name of the potters who made them: Vibius, Camuri, and Itta. The same names on pottery have been found also in Europe in the Roman military stations along the Rhine and elsewhere, always before the middle of the first century after Christ. In the second period a great warehouse was built out of bricks, begun after 50 and abandoned before 100 because it was exposed to the floods of the nearby river in the rainy season. In the third period some secondary brick-buildings were erected in the southern sector in the second century after Christ. Cfr. A.C. PERUMALIL, *The Apostles in India*, Bangalore, 1952, p. 28 (henceforth, PERUMALIL); AIYA, NAGAM, *The Travancore State Manual*, vols. I, Trivandrum, 1906, p. 239; GEORGE SCHURHAMMER, "New Light about the Tomb of Mailapur", in OCA 186 (1970), pp. 99-100 (henceforth, SCHURHAMMER); R. E. M. WHEELER, A. GHOSH and KRISHNA DEVA, "Arikamedu: an Indo Roman Trading-Station on the East Coast of India", in *Ancient India Bulletin of the Archaeological Survey of India* 2 (1946), pp. 17-124; H. HOSTEN S.J., *Antiquities from San Thome and Mylapore*, Calcutta, 1936, p. 92; E.R. HAMBYE, "Excavations at S. Thome-Mylapore February-April", in *The St. Thomas Christian Encyclopaedia of India*, vol.II, Trichur, 1973, pp. 5-7 (henceforth, HAMBYE).

¹⁰ PLACID J. PODIPARA, "The South Indian Apostolate of St. Thomas", in OCP 18 (1952) pp. 229-245 (henceforth, PODIPARA); PERUMALIL, *The Apostles in India*, op. cit., pp. 19-37.

change of the Indian monsoon wind in 47 Hippalus made a very successful voyage across the sea to India and returned. Later this commercial relation was carried on both by land and sea. The land route from north India reached Ctesiphon via Persia. According to Pliny, "At Ctesiphon it branched off in several directions, the main track running through Mesopotamia, crossing the Tigris by the famous flying bridge between Zeugma and Apamea, and landing at the port of Antioch. Another important branch of the road ran to Palmyra, and then to Damascus, Gaza, Tyre and Sidon, and joined the network of highways which converged at Petra."¹¹ Most of the seaborne trade that came up the Red Sea found its way to Alexandria by way of Berenice, Coptos and the Nile.¹²

From all these historical facts and evidence we can conclude that most probably St. Thomas himself used this commercial route to reach India to carry out his mission at the very commencement of the Christian Era, and later his Church in India maintained its relationship with the rest of the Christian world by using the same commercial route. But according to Jacob of Saruq, St. Thomas had proceeded to India in the company of merchants from Mahoze.¹³ Although there is in South India no written evidence about this matter, a strong oral tradition among both Christians and non Christians has persisted over the centuries. This tradition has remained the proud patrimony of the St. Thomas Christians.

Naturally, we are to think that the St. Thomas Christians existed in several parts of the country, especially in South India. But, for reasons unknown, Christianity became extinct in other parts of India while, by a special providence of God, it flourished in Malabar.

¹¹ RAWLINSON, *Intercourse between India and the Western World*, Cambridge, 1916, p. 128 cited in PERUMALIL, *The Apostles in India*, op. cit., p. 31.

¹² For detailed description about the ancient voyages especially from 14th century onwards, cfr. MAGGY G. MENACHERY, "Roads to India", in *The St. Thomas Christian Encyclopaedia of India*, Trichur, 1973, pp. 14-15; PERUMALIL, *The Apostles in India*, op. cit., 19-37; PODIPARA, *The Rise and Decline of the Indian Church of the Thomas Christians*, Kottayam, 1979, pp. 6-7.

¹³ KOLLAPARAMBIL, *Canonical Institutes of the Malabar Church*, op. cit., p. 17.

Malabar, so known in ancient documents and especially in the ecclesiastical literature, from 1956 is politically named and known as Kerala.

2. The Anthropological Factor

The majority of the Syro-Malabar Christians are from Indo-Dravidian stock. From the very beginning their community had some Jewish and Persian influence, thus, they had an important role in the area of international trade even before the Christian era. These early inhabitants had their own primitive religion;¹⁴ Aryan influence became solid only at a later period. More than 95% of Syro-Malabar Christians are Indo-Dravidian by race.¹⁵ The great persecution of the Christians in the Persian Empire by Sapor II from 340 until about 379 had far reaching effects on the Church of Malabar, and some Christians who were escaping this persecution reached and settled in Malabar.

According to tradition, the Catholicos of the East sent Bishop Mar Joseph to Cranganore together with a colony of migrants led by Thomas Kinayi, a merchant, in 345.¹⁶ The origin of a section of the Southist Christians of Malabar is traditionally connected with this colonization.¹⁷ Additionally, local tradition attests to the coming of two more groups of migrants from the Persian empire, be it from Iraq or from Iran, who landed in Kerala and joined already existing communities.¹⁸ The first

¹⁴ MENON, *A History of Kerala*, op. cit., vol. III, p. 523; AERTHAYIL, *The Spiritual Heritage...*, op. cit., p. 11.

¹⁵ PODIPARA, *The Thomas Christians*, London-Bombay, 1970, p. 8.

¹⁶ KOLLAPARAMBIL, *Canonical Institutes of the Malabar Church*, op. cit., p. 16; cfr. A.E.MEDLYCOTT, "The St. Thomas Christians", in *New Catholic Encyclopedia*, vol. xiv, 1967, p. 680; Immigration songs in *Purathanappattukal*, cfr. SAMUEL GIAMIL, *Genuinae Relationes inter Sedem Apostolicam et Assyriorum orientalium seu Chaldaeorum ecclesiam nunc maiori ex parte primum editae, historicisque adnotationibus illustratae*, Romae, 1902, pp. 578-579 (henceforth, GIAMIL); PODIPARA, *The Hierarchy of the Syro-Malabar Church*, Alleppey, 1976, pp. 24-25, 27-28; A. M.MUNDADAN, *History of Christianity in India*, vol.I, Bangalore, 1984, pp. 94-95 (henceforth, MUNDADAN); BERNARD OF ST.THOMAS, *A Brief Sketch of the History of the St.Thomas Christians*, Trichinapoly, 1924, p. 9.

¹⁷ PODIPARA, *The Thomas Christians*, op. cit., pp. 63-64.

¹⁸ AA. VV., *Christianity in India. A History in Ecumenical Perspective*, edited by Perumalil and Hambye, Alleppey, 1972, p. 31.

group arrived about 774-795, and was led by a bishop, called Thomas, perhaps that monk Thomas consecrated by Catholicos Timothy I.¹⁹ The second group of migrants likely reached Quilon either in 813-815 or a century later in 910. They were led by two bishops, called Proth and Sabor.²⁰

3. Designation of the Syro-Malabar Church and her Members

The Malabar Church is that group of the faithful who owe their origin to the preaching of St. Thomas the Apostle. The epithets *Syro-Malabar* and *Chaldeo-Malabar* are applied to the Church because from early centuries the Church has followed the East Syrian rite. The members of this Church are generally called *Syrian*, *St. Thomas Christians*, *Thomas Christians*, *Malabarians*, or *Syrians of Malabar*, in contradistinction to the Christians of the Latin rite. The Portuguese documents frequently make use of the term Thomas Christians.²¹

The history of this Church prior to the arrival of the Portuguese (1498) is very obscure; little is known except for names of some of the prelates, and even then there are doubts and uncertainties regarding many of them.²² After the middle of the 16th century the Thomas Christians also began to be called *Chaldeans*, or *Chaldeans of Malabar*, to distinguish the community of Thomas Christians subject to the Latin jurisdiction in Malabar from the followers of Roccas and Mellus, who are called Syro-Chaldeans. The designation of *Syro-Malabar* came into prominence in the documents of the Holy See after the middle of nineteenth century.²³ Now as the Syro-Malabar Christians constitute a rite distinct and differ-

¹⁹ JOSEPH SIMONIS ASSEMANUS, *Bibliotheca Orientalis Clementino-Vaticana*, t. III, partes I & II, Romae, 1719-1728. t. III-2, pp. 444-445.

²⁰ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 45; MUNDADAN, *History of Christianity in India*, op. cit., p. 103; E. TISSERANT, *Eastern Christianity in India, A History of the Syro-Malabar Church from the Earliest Time to the Present Day* (authorized adaptation from French by E.R. HAMBYE, SJ), Bombay, Calcutta, Madras, 1957, p. 15 (henceforth, TISSERANT).

²¹ PODIPARA, *A Short History of the Syro-Malabar Church*, Kottayam, 1968, p. 20.

²² PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 41.

²³ GIAMIL, *Genuinae Relationes*, op. cit., p. 626, PODIPARA, *A Short History of the Malabar Church*, op. cit., p. 20.

ent from all others, the term *Syro-Malabar Church* will be used uniformly in this dissertation.

4. The Oriental Christian Community of Malabar

When we analyze the history of the oriental Christian community of Malabar, we can be conveniently divide it into four periods.

1. The Period of Origin
2. The Persian and Chaldean Period
3. The Latin Rule: The Portuguese and Propaganda Period
4. The Erection of and Developments under the Indigenous Hierarchy

4.1. The Period of Origin

The Syro-Malabar Church had its glorious origin and successive developments in the Malabar, the Southwestern region of India. According to ancient tradition, both oral and written, St. Thomas the Apostle came to India around 52, made many conversions, especially among the high caste Hindus and the diaspora Jews, and founded churches in seven places.²⁴ The Apostle visited the Coromandel Coast, travelled to China and then returned to India in order to nurture the growth of the communities he had established. In the year 72 he suffered martyrdom on or near the *Little Mount* in Mylapore near Madras and his body was buried in Mylapore. This tradition is still alive, strong, definite and existent among the Thomas Christians and even non-Christians as well. It relates St. Thomas' apostolate with definite places and families.²⁵ The story of

²⁴ St. Thomas Christians believed that St. Thomas founded seven churches in Kodungaloor, Quilon, Chayal, Niranam, Kokkamangalam, Kottakkavu and Palayur. Cfr. PODIPARA, "The Indian Apostolate of St. Thomas", in *The St. Thomas Christian Encyclopaedia*, pp. 7-12.

²⁵ There are many Christian families in Malabar who claim their Christian origin to the Apostle. The Thomas Christians give great honour to their families and for many centuries the Preclay and Priesthood were confined to some of these families, such as the Pakalomattam, Sankarapuri, Kalli, Kalikav, Koykkam, Madeipur, Muttodal, Nedumpally, Panakkamattam, Kottakali, etc. Cfr. PODIPARA, *The Thomas Christians*, pp. 19-20.

the apostolate of St. Thomas in South India is contained in the ancient songs and ballads of the Malabar Christians known as *Ramban Pattu*, *Margamkali*, *Thoma Parvam*.²⁶

The apostolate of St. Thomas outside the frontiers of the Roman empire is to be found in the writings of *Origen*, *Eusebius of Caesarea*, *Rufinus of Aquileia*, *Socrates and Clement of Alexandria*.²⁷ *St. Ephrem*, *St. Gregory of Nazianzen*, *St. Ambrose*, *St. Jerome*, *Gregory of Tours*, *Isidore of Seville*, and several ecclesiastical calendars and martyrologies associate St. Thomas with India.²⁸ According to *St. John Chrysostom*, the one “who occupies the See of Rome knows the people of India are his members,²⁹ and the burial place of St. Thomas is as well known as the tomb of St. Peter and St. Paul and St. John.”³⁰ Regarding the hierarchy and the organization of the first Christian community of India, however, not much is known of its history. There is a tradition which says that St. Thomas consecrated a bishop, a certain *Kepha*, the nephew of the local king, as his successor, and ordained priests and deacons.³¹ *The Acts of Judas Thomas* is the chief New Testament apocryphal composition in Syriac that gives the details of the mission of the Apostle in India. Though it is a third century apocryphal work, written in Edessa, several authors and scholars find in it a historical nucleus which represents the second century tradition about the apostolate of St. Thomas in India.³² Cardinal Tisserant draws this conclusions in his work, *Eastern Christianity in India*, about St. Thomas the Apostle’s mission in India:

²⁶ CICO, Fonti, Serie II, Fasc. VIII, *De fontibus Juris Canonici Syro-Malankarensium, Commentarius Historico-Canonicus*, ed. PLACIDUS A. S. JOSEPH TOCD, Typis Polyglottis Vaticanis, 1937, p. 225, note 2.

²⁷ PODIPARA, *The Thomas Christians*, op. cit., p. 15.

²⁸ These testimonies are collected and published by MEDLYCOTT, in *India and The Apostle Thomas*, London, 1905; Cfr. MUNDADAN, *Traditions of the St. Thomas Christians*, Bangalore, 1970, pp. 15-17, AERTHAYIL, *The Spiritual Heritage of the St. Thomas Christians*, op. cit., pp. 16-17; ANDREWS THAZHATH, *The Juridical Sources of The Syro-Malabar Church*, Kottayam, 1987, pp. 14-18 (hereafter, THAZHATH).

²⁹ MIGNE, *Patrologia Graeca*, vol. 59, col. 361 (henceforth, PG).

³⁰ PG, vol, 63, col. 170.

³¹ G.T. MACKENZIE, *Christianity in Travancore*, Trivandrum, 1901, p. 4.

³² MUNDADAN, *History of Christianity of India*, op. cit., pp. 21-64.

Summing up the present results of historical scholarship on the origin of Christianity in India, particularly in Malabar, we may say this: There was a very ancient evangelization started by St. Thomas the Apostle, and mainly in South India.³³

4.2. The Persian and Chaldean Rule

4.2.1. The Persian Rule

From early centuries there existed some kind of relations between the Christians of Malabar and the Church of Persia.³⁴ However, nothing is known for certain as to when, why and how these relations had their beginning.³⁵ The origin of Christians in Persia is attributed to Addai, and to his disciple Mari. The Apostle Thomas is also considered to be intimately connected with the Persian Church and Addai and Mari are considered to be his disciples. The *Chronicle of Seert*, an important East Syrian document of the seventh and eighth century makes reference to a bishop, named David who allegedly evangelized the Indian people between 250 and 300. During the patriarchate of Shahlufa and Papa, Dudi (David), an eminent doctor and the bishop of Basra on the Persian Gulf, left his See and went to India where he evangelized many people.³⁶ In the lists of the bishops at the Nicean Council of 325 is mentioned one John the Persian who, according to the history of Gelasius written in 475, was bishop of all of Persia and Great India.³⁷ In 520-525 Cosmas Indicopleustes, a Nestorian merchant, later perhaps a monk, travelled to India, Ceylon, etc., and later wrote his *Topographia Christiana* in 547-549, in which he speaks of the Christian churches in Ceylon, Malabar and Kalliana. In Ceylon he found Christians and priests from Persia; in Male

³³ TISSERANT, *Eastern Christianity in India*, op. cit., p. 10.

³⁴ The term *Persian Church* is here meant for the Church which flourished in Persia Proper (Fars-Iran).

³⁵ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 27.

³⁶ WILLIAM C. YOUNG, *Handbook of Source-Materials for students of Church History* (Indian Theological Library No.2), Madras, 1969, p. 29.

³⁷ GELASIUS CYZICENUS, *Historia Concili Nicaeni*, Lib. II, Cap. 27 and 36; PG 85, cols. 1310-1311; 1342-1343. Cfr. KOLLAPARAMBIL, *Canonical Institutes of the Malabar Church*, op. cit., p. 16.

and in Kalliana, according to his testimony, there was a See whose bishop was customarily ordained in Persia.³⁸

Clear evidence for India's hierarchical relation with Persia may be had from a letter of the Chaldean Patriarch Isojahb Adiabenus (650-660) written to Simon, Metropolitan of Persia, who was in open revolt at the time against the Chaldean Church. Isojahb wrote:

Sacerdotal succession was interrupted, not only in India which extends from the borders of Persia (Pares) to the country called Qalah, a distance of 1,200 parsanges, but also in Persia.³⁹

4.2.2. The Chaldean Rule

Since India had hierarchical relations with the Persian Church, and the Persian Church with the Chaldean, it follows that India was indirectly related to the Chaldean Church. The name *Chaldean*, of later origin, refers especially to the post-reunion period, and represents the Old Church of Seleucia.⁴⁰ In the synod of 410 the prelate of Persia Proper, came under Seleucia-Ctesiphon and later the Church got a certain autonomy within the whole of the Persian Church.⁴¹

When we analyze the hierarchical dependency of the Malabar Church to the Chaldean Church, a certain Periodotus by the name of Bodh seems to have visited India as the delegate of the Chaldean Patriarch Ezechiel (557-581).⁴² The Chaldean Patriarch Mar Sabriso I (596-

³⁸ GIAMIL, *Genuinae Relationes* ..., op. cit., p. 570.

³⁹ GIAMIL, *Genuinae Relationes* ..., op. cit., pp. 579-581.

⁴⁰ GIAMIL, *Genuinae Relationes*..., op. cit., p. 570. Seleucia-Ctesiphon is the twin cities on both sides of the river Tigris. This is the only Christian centre of that time outside the Roman empire. The capital of the Persian empire was also in Seleucia-Ctesiphon. The Chaldean Church is also known by different names such as the Church of East, the Church of Seleucia-Ctesiphon, the Persian Church, the Assyrian Church, the Assyro-Chaldean Church, the East Syrian Church, the Syro-Chaldean Church, the Babylonian Church. Cfr. PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 17. The head of the Chaldean Church, namely the Prelate of Seleucia-Ctesiphon, became known as Great Metropolitan, Catholicos, Patriarch, Catholicos-Patriarch, the Patriarch of Babylon.

⁴¹ J. A. ASSEMANI, *Bibliotheca Orientalis Clementino Vaticana, de scriptoribus Syris Nestorianis*, vol. II, p. 433 (henceforth, ASSEMANI).

⁴² MUNDADAN, "Origins of Christianity in India", in *Christianity in India*, edited by Perumalil and Hambye, op. cit., p. 28.

602) presented perfumes and gifts received from the faithful of India to Bishop Marutha. At the time of the Chaldean Patriarch Isoyab II (628-646) priests, chiefly monks and bishops, were sent to India.⁴³ The Chaldean Patriarch Isoyab (650-660) elevated the Indian Church to the status of a Metropolitan See.⁴⁴ Patriarch Timothy I (780-823) constituted the Indian Church independent of the Persian Church and placed it under his jurisdiction.⁴⁵ The title of the chief bishop was "*The Metropolitan and the Gate of All India*."⁴⁶ For assisting him in the effective administration of the Church the metropolitan had an Archdeacon, who was a priest with the title "*The Archdeacon of All-India*."⁴⁷ These Archdeacons were the leaders not only in ecclesiastical but also in civil and social matters, as affirmed by a Portuguese document which is kept in the National Library of Lisbon:

The Archdeacon, the first among the 72 princes of Perumpadapil Cochin, was a man to crown the king in order that the king may be recognized as king.⁴⁸

Compory, who was in Malabar, testified at the beginning of the seventeenth century:

According to the information gathered from several books and well known facts, the bishop of the Serra (Malabar) was always and is the oldest in the whole of India. Its Archbishops and Prelates were always called Archbishops and Prelates of All-India and of its confines.⁴⁹

These facts undoubtedly prove that the Church in Malabar was under the Church of Seleucia until the sixteenth century and that Malabar

⁴³ TISSERANT, *Eastern Christianity in India*, op. cit., p. 31.

⁴⁴ ASSEMANI, *Bibliotheca Orientalis...*, op. cit., vol. III, p. 346.

⁴⁵ ASSEMANI, *Bibliotheca Orientalis...*, op. cit., vol. III-2, p. 616.

⁴⁶ PAULINUS a S. BARTHOLOMAEO, *India Orientalis Christiana*, Romae, 1794, p. 88. "Gate" among the Orientals signifies sublime authority or sublime and very strong power. Cfr. KOLLAPARAMBIL, *Archdeacon of All-India*, op. cit., p. 225.

⁴⁷ For more detailed study, cfr. KOLLAPARAMBIL, *Archdeacon of All-India*, Rome, 1972; PODIPARA, *Thomas Christians*, op. cit., p. 95, MUNDADAN, *Traditions of St. Thomas Christians*, op. cit., p. 146.

⁴⁸ "Noticias do Reino do Malabar," in *BIBL. NACIONAL*, Fundo Geral, 536, ff. 1-29; cited also in PODIPARA, "Hindu in Culture, Christian in Religion, Oriental in Worship", in *Ostkirchliche Studien*, 8 (1959-II), p. 108.

⁴⁹ Jesuit Archives, Rome, Goa: vol. 65, f.5.

had a *Metropolitan See*. The Church of the Thomas Christians of India was hierarchically subordinated to the Persian Church first, and then to the Church of Seleucia-Ctesiphon. The election and ordination of the metropolitan was under the jurisdiction of the Patriarch of Seleucia. During these times the Christians of India socially enjoyed a very high status with their own special ecclesiastical and social customs and practices.

4.3. The Latin Rule: The Portuguese and Propaganda Period

4.3.1. The Latin Rule: Pre-Portuguese Period

Of the history of St. Thomas Christians until the arrival of the Portuguese there is very little known, but the Latin Rite was known in Malabar even before their arrival. Mongol invasions caused the rise of the mendicant religious orders in the 13th century which created in Europe a new era of missionary enterprise with a correspondingly new form and style. The mendicants, especially the Franciscans and Dominicans, were in the forefront of these missionary activities,⁵⁰ whose evangelizing activity took definite shape with the erection of the diocese of Khanbaliq (Peking) in 1307.⁵¹ India also came under the territory of Khanbaliq.⁵² On the 1 April, 1318 Pope John XXII (1314-1334) divided Khanbaliq and erected the archdiocese of Sultanieh in Persia.⁵³ and thereafter India was in the territory of the new archdiocese.⁵⁴ Later the

⁵⁰ R.E. WATERFIELD, *Christians in Persia Assyrians, Armenians, Roman Catholics and Protestants*, London, 1973, pp. 29-40; MUNDADAN, *History of Christianity in India*, vol. I, Bangalore, 1984, p. 121.

⁵¹ MUNDADAN, *History of Christianity in India*, op. cit., p. 129.

⁵² "Alla giurisdizione spirituale del Montecorvino (archbishop of Khanbaliq) vennero affidate non solo Cina e l'India, ma tutte ancora le regioni degli imperi Tartari, fuori de' limiti dei tre mentovati patriarchati". G. GOLUBOVICH, *Biblioteca bio-bibliografica della terra santa e dell'oriente Francese*, Series I, vols. II & III, Quaracchi, 1913 & 1919. vol. III, p. 197.

⁵³ GOLUBOVICH, *Biblioteca bio-bibliografica della terra santa...*, op. cit., vol. III, p. 193.

⁵⁴ Bull "Redemptor noster," 1 April 1318, in *Biblioteca bio-bibliografica della terra santa...*, op. cit., vol. III, pp. 200-204.

Archdiocese of Sultanieh was itself divided into a number of dioceses, and one of these was Quilon in South India.⁵⁵

The Latin missions started by the Franciscans and Dominicans must have ceased to exist by the beginning of the 15th century,⁵⁶ due to the changing political situation in China and other parts of the east, in addition to and other factors. In 1368, Taytzuu (1368-1398), the founder of the Ming dynasty, overthrew the Mongols in China and began persecuting the Church there.⁵⁷ In other parts of the East it was the rise of the Ottoman supremacy (1299) that meant a drastic decline in Christianity. Finally, in the second half of the 14th century, the whole of the central Asian Christianity and the Church in the Eastern provinces of the Persian Church were destroyed by the conquest of Timur.⁵⁸ The same thing happened in India under the Mughals.⁵⁹

4.3.2. The Latin Rule: Portuguese Period

The history of the Portuguese period started with the arrival of the Portuguese Admiral, Vasco de Gama, in Calicut, Kerala, in 1498. De Gama was accompanied by priests, both secular and religious (Franciscans), and Calicut was naturally the first centre of their evangelization. The Syro-Malabarians treated them as friends and brethren in religion, holding even *communicatio in sacris* with them. The Portuguese converted many non-Christians to the Catholic faith in the Latin Rite. Cochin and Goa, outside of Malabar, became politico-ecclesiastical centres of the Portuguese in India. Thus the Catholic Church in India grew significantly, and consequently more missionaries came from the West and worked in various parts of India. The assignment of separate regions to various religious congregations contributed greatly to a flourishing apostolate.

⁵⁵ GOLUBOVICH, *Biblioteca bio-bibliografica della terra santa...*, op. cit., vol. III, pp. 198, 200-204; GERVASIS MULAKARA, *History of the diocese of Cochin*, vol. I, Rome, 1986, pp. 42-44.

⁵⁶ MUNDADAN, *History of Christianity in India*, op. cit., p. 137.

⁵⁷ L.E. BROWNE, *The Eclipse of Christianity in Asia, from the Time of Muhammad till the 14th Century*, Cambridge, 1933, p. 173.

⁵⁸ B. SPULER, *Die Mongolenzeit*, Berlin, 1948, pp. 51-52.

⁵⁹ GEORGE MARK MORAES, *A History of Christianity in India*, Bombay, 1964, pp. 90-102 (henceforth, MORAES).

There was a *Christus Ordo* with its Vicar Apostolic in Thomar⁶⁰ having jurisdiction over all countries that were to be discovered by Portugal, and the Indian territories of Portugal were under his jurisdiction.⁶¹ The Vicar of Thomar was the only bishop under the king so, from a practical point of view, he was unable to administer the government all over the conquered lands. In 1514, Pope Leo X erected the diocese of Funchal on the island of Madeira and appointed the Vicar of Thomar as its first bishop,⁶² and additional vicars were sent to India. In 1533 Funchal was made an archdiocese, and in 1534 the diocese of Goa was erected⁶³ suffragan see of Funchal. In 1557 the diocese of Cochin was founded⁶⁴ with Goa elevated to an archdiocese in 1558.

4.3.3. The Syro-Malabar Church and the Padroado⁶⁵

With the erection of the Sees of Goa and Cochin, the Portuguese believed that they also had jurisdiction over the St. Thomas Christians. The Portuguese, in general, identified the Catholic faith with the Latin rule. Whatever was not Latin, was heretical, schismatic or superstitious in their eyes.⁶⁶ They had recourse to every means to impose their Latin Rite and jurisdiction on the Syro-Malabarians and to do away with the Chaldean jurisdiction and Rite. The imprudent Latinizing activities of some of the missionaries caused serious discord with the Indian Church of St. Thomas Christians.

Exploiting the death in 1597 of the metropolitan of the Syro-Malabar Church, Mar Abraham of Angamale, Dom Menezes, Latin Rite Archbishop of Goa, came to Malabar armed with two apostolic briefs of

⁶⁰ MORAES, *A History of Christianity in India*, op. cit., p. 229.

⁶¹ *Bullarium Patronatus Portugalliae Regum*, vol. I, ed., L. M. JORDAO, Olisipone, 1868, p. 59 (henceforth, BPP).

⁶² *Pro excellenti praemientia*, 12 June 1514 in BPP, vol. I, pp. 100-101.

⁶³ Bull "*Aequum reputamus*," 3 November 1534, in BPP, vol. I, p. 149.

⁶⁴ Bull "*Pro excellenti*," 4 February 1557, in BPP, vol. I, p. 193.

⁶⁵ Padroado right means the right of patronage given by the Holy See to the Portuguese King of the right to present suitable candidate for the bishopric or other ecclesiastical benefice in the newly-discovered territories, and the corresponding duty to protect the Christians in the regions wherever Portugal would establish itself. Cfr. D. FERROLI, *The Jesuits in Malabar*, vol. II, Bangalore, 1939-1951, pp. 165-169.

⁶⁶ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 48.

Pope Clement VIII.⁶⁷ He claimed that he had complete authority from the Pope and visited all the churches of the Thomas Christians exercising jurisdiction over them, even conferring sacred orders.⁶⁸ Finally the archbishop reluctantly confirmed the archdeacon of the diocese as administrator in accordance with the custom, but called a synod, which was held in Diamper in June 1599.

4.3.4. The Synod of Diamper and its Effects

The Synod of Diamper⁶⁹ introduced radical changes which affected substantially the nature of the Malabar Church. The scope of the synod was to impose upon the Church of Angamale the Portuguese Latin Padroado jurisdiction, placing it under the Archdiocese of Goa. It was convoked under *the precept of obedience and under the pain of excommunication latae sententiae*.⁷⁰ At the synod the St. Thomas Christians, including their leader the archdeacon, were prevailed upon and were condemned as heretics and schismatics. Many Latin practices regarding the rite and the ecclesiastical laws were introduced, dealing with doctrine, morals, discipline, abuses, and superstitious practices, according to the idea of Dom Menezes.⁷¹ It decided that an East Syrian translation of the *Rituale Romanum* and of other ceremonies was to take the place of the genuine East Syrian Ritual;⁷² all the existing liturgical books of the Thomas Christians were burned.⁷³ Subsequent studies have proved that this synod itself was invalid because of the lack of authority of the person who convoked it, the lack of form in which it was conducted,

⁶⁷ The two famous Briefs of Pope Clement VIII to the Archbishop of Goa, Dom Alex Menezes, the first asking him to investigate the life and doctrine of Mar Abraham and to appoint a Vicar Apostolic if he was found guilty; the second to nominate a Vicar Apostolic at his death. Cfr. THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, op. cit., p. 124.

⁶⁸ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 92.

⁶⁹ The diocesan synod of Diamper (Udayamperur) in which a few Jesuits, 153 Thomas Christian priests and 660 laymen and many volunteers participated. Cfr. THAZHATH, *The Juridical Sources of the Syro-Malabar Church*, op. cit., p. 135.

⁷⁰ PODIPARA, *The Thomas Christians*, op. cit., p. 138.

⁷¹ PODIPARA, *The Thomas Christians*, op. cit., pp. 138-139.

⁷² PODIPARA, *Our Rite* (Malayalam), Mannanam, 1951, pp. 56-58.

⁷³ JONAS THALIATH, *The Synod of Diamper*, Rome, 1952, p. 31.

and also because substantial changes were introduced when the See was vacant.⁷⁴

As a consequence of the *Synod of Diamper*, the Portuguese Latin jurisdiction was imposed upon the Syro-Malabar Church, and Dom Franzis Roz was nominated to the see of Angamale as successor to Mar Abraham on November 5, 1599.⁷⁵ On December 20, 1599, Pope Clement reduced the see of Angamale to the status of a simple diocese and made it suffragan to Goa. Therefore, on August 4, 1600, the right of Padroado was extended over Angamale.⁷⁶

The Diamper Synod marked the beginning of almost three centuries of Latin domination (1599-1896) over the Syro-Malabar Church. During this period there were many sad events that took place in the history of the Malabar Christians between the Latin prelature together with the missionaries of Latin Rite and the local clergy together with the laity of the Malabar Church. During this time, the St. Thomas Christians kept trying to regain their own bishops and administrators.⁷⁷ On 25 August, 1652, a Catholic archbishop of the Syrian rite called Cyril Mar Attalah arrived at Mylapore, and informed the Thomas Christians of his arrival as *Patriarch of All-India and China*, saying that he had *all power given by our lord the Pope. In the name of Mary, Mother of God*, he invited the Thomas Christians community to join him.⁷⁸ Knowing the intention of his coming, the Thomas Christians petitioned Mar Attalah to come to Malabar, but the Latin Archbishop did not grant this request, saying that even if Attalah had been sent by the Pope, he had no authorization from

⁷⁴ For detailed study cfr. JONAS THALIYATH, *The Synod of Diamper*, Rome, 1952; PODIPARA, *The Thomas christians*, op. cit., pp. 138-140; *The Hierarchy of the Syro-Malabar Church*, op. cit., pp. 92-94.

⁷⁵ P.A. JANN, *Die Katholische Missionen in Indien, China und Japan ihr Organisation und das Portugiesische Patronat von 15 bis ins 18 Jahrhundert*, Paderborn, 1951, p. 169.

⁷⁶ APF, *Miscellaneae Divesae*, vol. I, p. 111; BPP, vol. I, p. 260 or *Corpo Diplomatico Portugues*, vol. 12, p. 80; cfr. KOLLAPARAMBIL, *Canonical Institutes of the Malabar Church*, op. cit., p. 81.

⁷⁷ KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 139.

⁷⁸ APF, *Scritture riferite nei Congregazioni Generali*, vol. 232, f.21.

the king of Portugal.⁷⁹ Later Mar Attalah was sent to Goa via Cochin without the Thomas Christians being allowed to see him.⁸⁰

Soon after the arrival of the false rumour that Attalah was drowned by the Portuguese off the coast of Cochin,⁸¹ the agitated Thomas Christians gathered at Mattanchery, near Cochin, under the leadership of the archdeacon and took an oath that they would never obey the Paulists, i.e., the Jesuits.⁸² This collective pledge is known in the history of St. Thomas Christians as *Coonan Cross Oath* (Coonan Kurisu Sathiyam).⁸³ There the assembly of Thomas Christians gathered under the leaders and declared the Archbishop of Goa deposed and the archdeacon appointed as their ecclesiastical governor.

Arguing from a letter attributed to Mar Attalah the archdeacon was acclaimed Archbishop of St. Thomas Christians, when on the feast of Pentecost, 20 May, 1653, twelve priests imposed their hands upon him calling him Metropolitan Mar Thoma I.⁸⁴ He began to exercise all episcopal functions such as ordaining priests, appointing vicars in the parishes, etc., and at the same time he openly tried to obtain valid episcopal consecration.⁸⁵ The majority of the Thomas Christians adhered to the archdeacon and only a few held to the Latin jurisdiction.

⁷⁹ KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 140.

⁸⁰ From Goa, Mar Attalah was sent to Lisbon in the company of the Archbishop of Myra. Acquitted of all charges, he proceeded to Rome, but on the way died at Paris in 1654. Cfr. KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 140.

⁸¹ PODIPARA, *The Thomas Christians*, op. cit., p. 152; *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 124.

⁸² PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 124; *The Thomas Christians*, op. cit., p. 152; KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 140. It said that the huge crowd tied a rope to an open air Cross at Mattanchery and the people touched the rope when they took the solemn oath on 3 January, 1653. Witnesses at the judicial inquiries testified only of the oath made inside the Church. For more detailed account cfr. KOLLAPARAMBIL, *The St. Thomas Christians' Revolution in 1653*, Kottayam, p. 1981.

⁸³ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 124; KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 140.

⁸⁴ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 125; KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 141.

⁸⁵ PODIPARA, *The Thomas Christians*, op. cit., p. 153.

As a conflict within a conflict, there were three groups among the Thomas Christians, especially at the end of 1657: one obeying the archbishop, a second following the rebellious archdeacon, and the other professing obedience to the Pope but unwilling to submit themselves to the archbishop. However, the last mentioned group wanted the Holy See to give them a new pastor either in the person of the archdeacon or any other non-Jesuit priest.⁸⁶ Later the archdeacon and those who adhered to him gradually drifted away and accepted Jacobitism and finally the Syro-Antiochean Rite.⁸⁷ St. Thomas Christians, who continued as one community till 1653, became divided in two groups: one group remaining loyal to the Roman Pontiff, either under the Propaganda or under the Padroado jurisdiction in spite of the pledge of the Coonan Cross of 1653; the other subjecting itself to the Syro-Antiochean jurisdiction (Jacobite).

The group that subjected itself to the Antiochean jurisdiction gradually became divided into three sections: one directly under the Patriarch called the Patriarchal party, the second under the Catholicos party and a third known as the Thozhiur Church, all professing the Jacobite tradition.

4.3.5. Propaganda Jurisdiction

Learning of the deplorable events that took place in Malabar through the reports of the Jesuits and of the Portuguese government,⁸⁸ Pope Alexander VII sent two *Apostolic Commissaries* under the auspices of the Congregation Propaganda Fide by two different routes to Malabar. Accordingly, two commissaries, Fr. Hyacinth of St. Vincent and Fr. Joseph Maria Sebastiani, both Discalced Carmelites, accompanied by their companions left Rome in February 1656.⁸⁹ Fr. Sebastiani reached Malabar on 22 February, 1657,⁹⁰ investigated all the events of the Malabar Church, and left for Rome on 7 January, 1658, to submit his report to the Pope. Fr. Hyacinth arrived in Malabar in March 1658, only

⁸⁶ KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 143; PODIPARA, *The Hierarchy of the Syro-Malabar church*, op. cit., p. 125.

⁸⁷ PODIPARA, *The Thomas Christians*, op. cit., p. 159.

⁸⁸ BERNARD OF ST. THOMAS, *A Brief Sketch of the History of the St. Thomas Christians*, Trichinopoly, 1924, p. 64.

⁸⁹ APF, SOCG, vol. 232, f. 121.

⁹⁰ APF, Acta 24, ff. 80-81.

after Sebastiani had returned to Rome. Through the efforts of Fr. Sebastiani, many Malabar priests and communities acknowledged the primacy of the Pope and the invalidity of the archdeacon's consecration and adhered to the Apostolic Commissary.

After having heard the report of Fr. Sebastiani, the Holy See secretly consecrated him in Rome on 15 December, 1659, as Titular Bishop of Hierapolis and appointed him as the administrator of the whole Malabar Church.⁹¹ This appointment was provisional for the spiritual need of those Christians who were unwilling to remain under the Padroado.⁹² Sebastiani reached Malabar in 1661 and started his work among the Malabar Christians.

4.3.6. Double Regime in the Malabar Church

When the Dutch conquered the town of Cochin in 1663, they ordered all foreigners to quit Malabar; as a result, Mar Sebastiani had to leave Cochin. Before his departure, using the faculty he had from the Apostolic Brief *Pro Commissa Nobis*, Sebastiani consecrated Fr. Alexander Parambil (Alexander de Campo) as Titular Bishop of Magara and Vicar Apostolic of Malabar.⁹³ This election had a silver lining for the Malabar Church, for all the Thomas Christians preferred to be under the new bishop. But he died in 1687 without a successor, and once again the Syrians of Malabar came under the Latin jurisdiction.

On 1 April, 1698, the Carmelites obtained permission from the Dutch authority⁹⁴ to work again in Malabar⁹⁵ under certain conditions. Thus Angel Francis of St. Theresa was appointed Vicar Apostolic of Malabar,⁹⁶ a provisional appointment, i.e., until the Archbishop of Cranganore should have personally occupied his see. Consequently in

⁹¹ APF, SOCG, vol.232, f.420.

⁹² THOMAS PALLIPURATHUKUNNEL, *The Thomas Christians in the Divided Churches*, Alwaye, 1982, p. 160.

⁹³ APF, SOCG, vol.234, f.382.

⁹⁴ APF, CP, vol.109, f.60.

⁹⁵ APF, CP, vol.30, ff.822, 829; SC (IOC) 39, f.516.

⁹⁶ APF, CP, vol.30, f.809; CP 109, f.23; PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 137.

1704 Angel retired when Dom Ribiero took possession of that see,⁹⁷ but, at the request of the Thomas Christians,⁹⁸ Pope Clement XI extended the jurisdiction of Angel Francis on 13 March, 1709. From then onwards the *Propaganda Jurisdiction* began to exist side by side with that of the *Padroado Jurisdiction*.⁹⁹ The Propaganda rule was continued under the Carmelites until 1887 and the Padroado rule continued under the Jesuits until 1773.¹⁰⁰

Gradually there began to arise tensions between Padroado and Propaganda in those ecclesiastical matters which also affected the life of the Thomas Christians. In the meantime, the *Yogam* (assembly of the St. Thomas Christians) gathered and decided to send a delegation to Rome and to Lisbon headed by two priests, Fr. Joseph Kariattil and Fr. Thomas Paremmakal.¹⁰¹ First they submitted their petition in Lisbon and then proceeded to Rome, where they did not receive a cordial reception. Both came back to Lisbon, where Kariattil was nominated Archbishop of Cranganore in 1782 and consecrated in February 1783 under the Padroado.¹⁰² But before reaching Malabar he died in Goa on 10 September, 1786.¹⁰³ The sudden death of Mar Kariattil aroused a strong suspicion among the Thomas Christians against foreign missionaries. In order

⁹⁷ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 146.

⁹⁸ The head of the Jacobites of Malabar was inclined to become Catholic. Since he was against the Jesuits, the Syro-Malabarians together with the Archdeacon Matthew on November 18, 1704 asked Pope Clement XI that the head of the Jacobites might be validly ordained bishop and that the Carmelites might be permitted to remain in Malabar. Cfr. APF, SOCG: Indie Orientali e Cina, vol. 23, ff. 193-195.

⁹⁹ T. PALLIPARATHUKUNNEL, *The Thomas Christians in the Divided Churches*, op. cit., p. 100; PODIPARA, *The Thomas Christians*, op. cit., p. 167.

¹⁰⁰ The long lists of these Prelates both Propaganda and Padroado can be seen in PODIPARA, *The Thomas Christians*, op. cit., pp. 168-169.

¹⁰¹ CATHANAR THOMMAN PAREMMAKAL, "Varthamanapusthakam", English translation with notes by PODIPARA, in OCA n.190, Rome, 1971, pp. 60-62; BERNARD OF ST. THOMAS, *The St. Thomas Christians* (Malayalam), vol. II Mannanam, 1933, pp. 138-139.

¹⁰² Vatican Archives, *Acta Camerarii Sacri Collegii SRE Cardinalium*, Vol.39, f.238; PODIPARA, *The Hierarchy of the Syro-Malabar church*, op. cit., p. 150; KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 179.

¹⁰³ BERNARD OF ST. THOMAS, *The St. Thomas Christians*, vol. II, op. cit., p. 216; KOLLAPARAMBIL, *The Archdeacon of All-India*, op. cit., p. 179.

to appease them, Fr. Thomas Paremmakal was appointed by the Padroado as the Administrator of the vacant See of Cranganore (1786-1799). After the death of Paremmakal, the Padroado appointed Fr. George Sankurikal as his successor. When he died in 1801, the Syro-Malabarians again were definitely divided between the Padroado and the Propaganda jurisdiction.¹⁰⁴

The most important events in the Malabar Church took place in the 19th century. This period is marked by the suppression, restoration, and new suppression of the Padroado jurisdiction in Malabar, by the ups and downs of the Propaganda jurisdiction, by the attempts of the Chaldean Patriarchs to assert their authority over Malabar causing schisms and strong reactions of the Holy See against these moves, and by the erection of indigenous Vicariates.

On account of the Padroado troubles Pope Gregory XVI suppressed the Padroado Sees of Cranganore and Cochin in 1838 and these two Sees came under the sole jurisdiction of the Vicariate Apostolic of Malabar, Verapoly, under Propaganda.¹⁰⁵ However in 1857, as a concordat was made between the Holy See and the Portuguese, the Padroado jurisdiction was gradually restored.¹⁰⁶ The Thomas Christians again came under the Padroado and Propaganda jurisdiction. The Syrian community of Thomas Christians, unhappy with this situation, continuously asked for prelates of their own rite. Responding to the request of some Malabarians Mar Audo, the Chaldean Patriarch, sent Mar Roccas to Malabar in 1861, an action against the will of the Holy See. By the Apostolic Letter *Nuper nobis redditae* dated 26 September 1862, the Chaldean Patriarch was forbidden to send to Malabar any more bishops and thus the Chaldean jurisdiction over the Thomas Christians came to an end.¹⁰⁷ Pope Pius IX ordered the Patriarch to recall Mar Roccas under the pain of excommunication. Nevertheless, Roccas reached Malabar and soon after began to exercise jurisdiction by visiting churches and conferring orders, as a

¹⁰⁴ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 152.

¹⁰⁵ PODIPARA, *The Hierarchy of the Syro-Malabar Church*, op. cit., p. 161.

¹⁰⁶ PODIPARA, *The Hierarchy of the Syro-Malabar church*, op. cit., p. 170.

¹⁰⁷ IPPF, Pars Prima, VI, 1,383-384; BERNARD OF ST. THOMAS, *The St. Thomas Christians*, vol. II, op. cit., p. 274.

consequence of which Roccas was excommunicated on 30 November 1861, as directed by Rome.¹⁰⁸ Later Mar Audo, on recalling Roccas as ordered by Rome, in 1862 wrote to the Propaganda defending his act.¹⁰⁹

The desire of the Malabarians to be under a bishop of their own rite led to another problem in 1874. This time the Chaldean Patriarch sent to Malabar Mar Elias Mellus, who proclaimed himself to be the true pastor and bishop of the Syrians of Malabar. Many followed him and many churches fell in to the Mellusian Schism.¹¹⁰ The events of these years focussed the attention of the Holy See on the necessity of considering seriously the question of granting ritual bishops to the St. Thomas Christians.

As a preliminary measure towards ritual separation Propaganda appointed two apostolic visitors to study the situation of Malabar Christians.¹¹¹ After a careful study, the apostolic visitors came to the conclusion that a ritual division was the best solution.¹¹² This did away with the disposition of canon 9 of the 4th Lateran Council, according to which there could not be two independent heads in a given territory even if there were faithful of different rites.¹¹³

After the Concordat with Portugal in 1886, the Thomas Christians were withdrawn from the Padroado, and *the Latin Hierarchy in India* was established under the Propaganda. The Vicariate Apostolic of Verapoly became an archdiocese with Quilon as its suffragan see. The

¹⁰⁸ ACO, Acta (1865) f.222r-223r, Letter on 13 December 1861 of Msgr. Bernardino. See also f.227r-228r, Msgr. Amanton's letter on 25 September 1861.

¹⁰⁹ ACO, Acta (1865) ff.228v - 231v.

¹¹⁰ ANTONY NIDHIRY, *Father Nidhiry*, Deepika Kottayam, 1971, pp. 120-122; PODIPARA, *The Thomas Christians*, op. cit., pp. 191-192.

¹¹¹ ACO, Acta (1876) f. 337v; DE MARTINS, *Ius Pontificium*, pars I, vol. VI-2, op. cit., pp. 292-293; ACO, Acta (1876) ff. 384-387.

¹¹² Letter of the Prefect of the Propaganda Fide in 1886 to Msgr. Agliardi: "Quindi vista l'importanza numerica del popolo, del clero, dei seminari, delle chiese ecc. si e' stabilito di separarli dai Latini. Eseguita tale divisione rituale, o anche territoriale, si costituiscono uno o due Vicariati Apostolici pei soriani, da affidarsi a Vescovi titolari Latini...come gia' risoluto da questa S.C. nella generale adunanza dei 9 Luglio 1877." Cfr. ACO, Acta (1877) f. 220; Lett.-Decr.(1886) f. 499.

¹¹³ PODIPARA, *The Thomas Christians*, op. cit., p. 195.

diocese of Cochin remained exclusively for Latin jurisdiction and was suffragan to Goa, both under the Padroado. The Padroado rule over the Thomas Christians came to an end by the suppression of the Archdiocese of Cranganore.¹¹⁴ In 1950 the Portuguese Government withdrew its Padroado over Cochin and Cochin was made suffragan to Verapoly.¹¹⁵

4.4. The Erection of and Developments under an Indigenous Hierarchy

4.4.1. The Erection of an Indigenous Hierarchy

The innermost desire of the St. Thomas Christians to regain their lost identity as a *Catholic Autonomous Oriental Church of India* was partially restored in 1887 through the erection of the two Vicariates Apostolic of Trichur and Kottayam under two non-Carmelite Latin Vicars Apostolic.¹¹⁶ On 28 July 1896, by the Apostolic Letter *Quae rei sacrae* the Holy See reorganized the two Vicariates into three, namely those of Ernakulam, Changanacherry and Trichur, and entrusted them to Syro-Malabar Vicars Apostolic with episcopal character.¹¹⁷ Naturally vicariate Kottayam is suppressed. The name *Syro-Malabar* was adopted to avoid East Syrian claims.¹¹⁸ With the Apostolic Letter *In Universi Christiani* of 1911, Pope Pius X erected the Apostolic Vicariate of

¹¹⁴ PODIPARA, *The Thomas Christians*, op. cit., p. 194.

¹¹⁵ PODIPARA, *The Latin Rite Christians of Malabar*, p. 87.

¹¹⁶ LEO XIII, "*Quod iam pridem*", Acta, vol. VII, 106-108. In this Apostolic Letter the Pope makes the following important points: a. A ritual separation of the Syrians from the Latins; b. The erection of two new Vicariates Apostolic for Syrians in Malabar; c. These Vicariates Apostolic are entrusted to Latin Bishops; d. The Vicars Apostolic are to choose from the Syro-Malabar Clergy a Vicar General, to whom are given special faculties; d. The Vicars Apostolic are to choose four consultors, all Syro-Malabarians, to aid them in the administration of the Vicariates and they are to be consulted in all ecclesiastical affairs; f. A territorial division of the Vicariates is made. Cfr. VARKEY VITHYATHIL, *Origin and Progress of the Syro-Malabar Hierarchy*, Kottayam, 1980, pp. 59-63.

¹¹⁷ LEO XIII, Acta, vol. XVI, 229-232.

¹¹⁸ ACO, DISM, vol.109, Fasc.3. It was the idea of Msgr. Zaleski, who was the Apostolic Delegate to India from 1892 to 1916. In his letter of 28 August 1896 he wrote, "Che nei brevi ed altri documenti non si faccia nessun menzione del patriacato Chaldeo, dei Chaldei e Soriani, ma che i Malabaresi siano piuttosto trattati come una nazione affatto diversa e di rito diverso, Syro-Malabarese."

Kottayam for the faithful of the *Southist* community of Malabar.¹¹⁹ Only in 1917, the newly created Sacred Congregation for the Oriental Churches assumed supervision of the Syro-Malabar Church.

Under these indigenous Prelates the Syro-Malabar Church made immense progress on all levels, and thus Holy See sanctioned and fully restored the *Syro-Malabar Hierarchy* in 1923, erecting Ernakulam as the Metropolitan See with the other Sees as suffragan to it, and raising three Apostolic Vicariates to the rank of dioceses.¹²⁰ On that occasion, in the Apostolic Constitution, *Romani Pontifices*, Pope Pius X declared:

From the day however on which the faithful of the Syro-Malabar Church obtained bishops of their own Rite and nation, they made in every way salutary Progress.¹²¹

Through the three separate decrees of the Oriental congregation, all dated 29 April 1955, the jurisdiction of the Syro-Malabar Hierarchy was extended¹²² for the whole of Kerala.¹²³ The Apostolic Constitution *Regnum Caelorum* of Pope John XXIII, dated 10 January 1959, raised the diocese of Changanacherry to an archdiocese and erected the new ecclesiastical province of Changanacherry with Changanacherry as the Metropolitan See and Palai and Kottayam as suffragan sees.¹²⁴ Today the Syro-Malabar Church is hierarchically constituted into 12 dioceses in

¹¹⁹ ASV, Canc. Brev. Ap. PIUS X an 1911, Divers., Lib.IX, pars 2, p. 607: This whole Brief is cited by V. Vithayathil, *Origin and Progress* Ap. III, p. 115. The *Southists* are the followers of Thomas of Kinayi.

¹²⁰ AAS 16 (1924) 257-262.

¹²¹ AAS 16 (1924) 257-262.

¹²² AAS 47 (1955) 784-788. With these decrees Sacred Congregation for the Oriental Churches extended the territories of Changanacherry, Tellicherry and Trichur. The reason given in the case of Changanacherry was the spiritual good of those Malabarians living in the dioceses of Quilon, Trivandrum, and Kottar. In the case of Trichur the Malabarians living in the diocese of Coimbatore expressly asked for it. The territory of Tellicherry was extended for the pastoral care of the migrants beyond the territory of the diocese. The decree *Suddistica Gens* had granted the Southist bishop a *Personal Jurisdiction* over all the Southists in the whole newly-defined ecclesiastical province of the Chaldaico-Malabar Rite. Cfr. AAS 47 (1955) 785.

¹²³ Formerly the jurisdiction was confined between the two rivers, Pampa in South and Bharathapuzha in North.

¹²⁴ AAS 51 (1959) 580-581.

Kerala, grouped under the two Metropolitan Sees, namely, Ernakulam and Changanacherry.

Meantime the St. Thomas Christians who separated from the ancient Church of Malabar and later joined with the Jacobite Patriarchate of Antioch, keenly felt the need of stability and fellowship with the Catholic Church. Actually this reunion started as an organic movement nearly three centuries after the separation. Under the leadership of Mar Ivanios, a group from Jacobite Church was reunited to the Catholic Church in 1930.¹²⁵ As a result the Syro-Malankara Church came into existence on 20 September 1930. Later, through the Apostolic Constitution *Christo Pastorum Principi* of 11 June 1932, Pope Pius XI constituted a special Hierarchy with an ecclesiastical province for the reunited Syro-Malankara Church.¹²⁶ With this new arrangement, a multiple jurisdiction arose in India, i.e., for the Syro-Malabar, Syro-Malankara and Latin Churches.

4.4.2. Missionary Expansion

Even though the Syro-Malabar Church supplied a large number of the missionary personnel in India, especially in the missionary dioceses and Religious Institutes of the Latin Rite, she had no opportunities to do evangelization in her own Rite. In this context Vatican II assert that:

All the Individual Churches or Rites both Eastern and Western are of equal rank and have the same right and obligation even with regard to the preaching of the Gospel.¹²⁷

In 1962 the Holy See decided to entrust to the Syro-Malabar Church the territory of Chanda as its first mission territory outside

¹²⁵ Mar Ivanios, Metropolitan of Bethany and his suffragan Mar Theophilos, bishop of Thiruvalla, accepted the decision of the Holy See and thus on 20 September 1930, together with the representatives of their followers, were received into the Catholic Church after having made their profession of Faith before Msgr. Benziger O.C.D., bishop of Quilon. Cfr. CYRIL MALANCHARUVIL, *The Syro-Malankara Church*, *The Syrian Churches Series*, Ernakulam, 1974, p. 131.

¹²⁶ AAS 24 (1932) 289-292.

¹²⁷ OE. n.3.; M. HOECK, "Decree on Eastern Catholic Churches," in H. Vorgrimler *Commentary on the Documents of Vatican II*, vol. I, New York, 1968, p. 315.

Kerala.¹²⁸ Encouraged by the success of this experiment the Holy See erected seven more eparchies in north India for the Syro-Malabar Church.¹²⁹ Finally on 30 April 1988, the diocese of Kalyan was erected¹³⁰ as a realization of the papal letter to the bishops in India in May 1987.¹³¹ It was mainly concerned with the promotion of the Syro-Malabar Church and the growth of its rite.¹³²

4.4.3. The Syro-Malabar Church at a Glance

Today the Syro-Malabar Church is hierarchically constituted of 12 dioceses in Kerala, headed by the Major Archbishop with two Metropolitan Sees and 9 mission dioceses outside Kerala who are suffragan to the corresponding regional Metropolitan Sees. Besides, there are several indigenous Religious Congregations, Societies and Secular Institutes, both of Pontifical and Diocesan right, for men and women existing among the St. Thomas Christians. The following statistics reflect the present state of the Syro-Malabar Church:¹³³

¹²⁸ This decree kept in the CMI Generalate Archives, Emakulam is published in VITHAYATHIL, *The Origin and Progress of the Syro-Malabar Hierarchy*, Appendix. IX, pp. 131-132.

¹²⁹ AAS 61 (1969) 20-21; AAS 61 (1969) 21-22; AAS 61 (1969) 23-24; AAS 64 (1972) 416-417; AAS 64 (1972) 418-419; AAS 69 (1977) 246-247; AAS 76 (1984) 945-946.

¹³⁰ JOHN PAUL II, Apostolic Constitution *Nova Eparchia Callianensis pro fidelibus ritus syro-malabarensis in regione Bombayensi-Poonensi-Nashikensi degentibus conditur*, AAS 80 (1988) 1381-1382.

¹³¹ "Pro Christifidelibus in regione Bombayensi-Poonensi-Nasikensi frequentioribus factis probe novimus per Apostolicas litteras, quas superiore anno ad Indiae Venerabiles in episcopatu Fratres die XXVIII mensis Maii dedimus, aperte Nos ipsos statuisse novam ritus Syro-Malabrensis Eparchiam, illic iam nunc condendam esse." AAS 80 (1988) 1381.

¹³² "Probatum eim morem sequimur huius Sanctae Sedis, quae ut plane constat, etiam Eparchiae hic illic constituere consuevit constitutasque ita tuetur, ut et in servando ritu eis sit auxilio. Qui, igitur, vehementer cupimus ut Ecclesia Syro-Malabarensis quam maxime provehatur prospereque ritus eius colatur, Nos de consilio Congregationis pro Ecclesiis Orientalibus Nobiscum hodie collato deque plenitudine Apostolicae potestatis Nostrae necnon harum Litterarum virtute novam in regione quam diximus pro Christifidelibus ritus Syro-malabarensis Eparchiam nomine Callianensem condimus eiusque constitutionem lege sancimus, cuius ipsius sedes, una cum Ecclesia Cathedrali, ipsa in urbe *Kalyan*." AAS 80 (1988) 1381-1382.

¹³³ The Statistics published in the book *Homage to Mar Kariattil. Pioneer Malabar Ecumenist*, C. Pyngott ed., Rome, 1987.

Major Archbishop	1
Metropolitan Sees	2
Dioceses	21
Diocesan Bishops	23
Diocesan Priests	2226
Diocesan Seminarians	2339
Religious ¹³⁴ Priests	1423
Religious Brothers	235
Religious Men Candidates	914
Religious Sisters	20480
Religious Women Candidates	3216
Parishes and Stations	2814
Catholics	2,843,957

The Catholic Directory of India for 1990 does not list separately the number of Syro-Malabar Catholics who live in the Latin Dioceses outside Kerala; they are included in the general Catholic population of those respective dioceses. Since the number of Syro-Malabar Catholics in some major dioceses is significant, the actual figures of Syro-Malabar Catholics must actually be higher than that given above. Thirteen bishops,¹³⁵ and many clergy and seminarians are really Syro-Malabar Catholics serving in the Latin Church of India. The number of Syro-Malabar Religious men and women, working in the Latin Religious Institutes in India and abroad, is enormous. All these numbers bespeak the vitality of the Malabar Church of St. Thomas.

5. Syro-Malabar Catholics outside the Jurisdiction of their Hierarchs

A great number of Syro-Malabar Catholics who have migrated from Kerala now live in many parts of India and abroad. These people do not receive any Syro-Malabar pastoral care from either bishops of their own rite or from the respective Latin hierarchs. We have already seen

¹³⁴ Religious includes both Congregations, Secular Institutes and Societies

¹³⁵ *Annuario Pontificio* 1992.

that three centuries of Latin rule over the Malabar Church had done almost irreparable damage to its autonomous identity and loyalty to their Mother Church. This same situation continues even today. The Latin ordinaries of the respective dioceses are not providing an opportunity for these migrants to practice the faith in their own rite. As a remedy for this situation, Pope John Paul I appointed an Apostolic Visitor to study and report to the Holy See on the needs of the faithful of this Church who live outside Kerala, especially in the Latin dioceses of India.¹³⁶ In 1986 the present Pope, John Paul II, set up a high-level commission of Cardinals and Archbishops to settle the huge problem which is facing the Syro-Malabar Church in India.¹³⁷ Finally, to implement the principles of Vatican II and as a result of the papal letter to the bishops of India in May 1987, the Diocese of Kalyan was erected on 30 April 1988.¹³⁸ However, by the erection of the Diocese of Kalyan, the Supreme Authority of the Catholic Church has touched only the tip of this great problem. To resolve difficulties in other areas, the Thomas Christians are still struggling, as their forefathers did before them.

6. The Phenomenon of Migration and Syro-Malabar Catholics

The phenomenon of migrations, as ancient as human history itself, has taken new forms and dimensions in recent times. Now, like the past, migrations are motivated by various reasons such as political and religious persecutions, tension among the various ethnic groups, wars, massive violation of human rights, natural and ecological catastrophes, and the lack of proper job possibilities. The continual increase in the fields of industrialization, the evolution of various social structures, the astonishing technical developments, increasingly rapid means of communications and transportation, also urge humanity to move from one place to another. Today an enormous number of people have chosen and continue to choose

¹³⁶ AAS 70 (1978) 995. Die 8 Septembris 1978, Exc. D.D. Antonium Padiyara, Archiepiscopum Changanacherrensem, Visitatorem Apostolicum pro fidelibus ritus Malabarensis, in variis Indiae dioecesisibus ritus Latini extra Keralam commorantibus.

¹³⁷ K. PATHIL, *Mission in India Today, The Task of St. Thomas Christians*, Bangalore, 1988, p. 72.

¹³⁸ AAS 80 (1988) 1381-1382.

this phenomenon to search for work or to ensure better living conditions for their family. As a result there are numerous and complex problems raised, which are not only of an economic, political, social, juridical and international nature but also of a human, personal, family, ethnic and religious one.

When we analyse the life of today's migrants, they seem to be a doubly marginal group. On the one hand, they are forced to migrate because of inadequate resources and unequal distribution of goods; on the other, they are sometimes ignored or subjected to new injustices in their countries of adoption.¹³⁹ However, massive migration from underdeveloped countries and regions of the world is greater today than at any other time in the history of mankind. Supporting this migratory movement, Pope John Paul II says in his encyclical *Laborem Exercens*:

Man has the right to leave his country of origin for various motives--as also to return there--and to seek better conditions of life in another country.¹⁴⁰

In recognizing this natural right of man he also wanted to emphasize the various problems in relation to this phenomenon. In an address given in the Hall of the Consistories, on 17 October, 1985, the same Pontiff made the following observations:

It is a trial, one could even say, under certain aspects, an evil, a necessary evil. This is true for the person who emigrates and for his family which generally goes through a difficult phase, with all the risks of uprooting; it is true for his own country deprived of a subject who enriches its life, its culture, its drive.¹⁴¹

6.1. Migration from India

During the period of British Colonialism, Indian workers were recruited as indentured labour and were sent to various colonial countries like Burma, Malaysia, Sri Lanka, Singapore, Fiji Islands, South Africa.

¹³⁹ National Conference of Catholic Bishops, "The Pastoral Concern of the Church for People on the Move", in *People on the Move: A Compendium of Church Documents on the Pastoral Concern for Migrants and Refugees*, ed., Robert Sherry, U.S.A, 1988, p. 60 (henceforth, NCCB).

¹⁴⁰ JOHN PAUL II, Encyclical Letter, *Laborem Exercens*, AAS 73 (1981) 635.

¹⁴¹ JOHN PAUL II, *The Work of Welcoming the Stranger*, in NCCB, op. cit., p. 44.

An increasing demand for manual labourers in the mines and plantations of the British companies attracted Indian labourers to join with former groups which were already settled in these countries. Later, many traders and business men had gone and joined this group. Gandhi's independent movement¹⁴² against British Colonialism is the proof of an early migration movement in India.

When India got independence from British Colonialism in 1947, there was a huge migration among the various types of workers to England and Australia, where they gradually settled permanently. Later many professionals, such as doctors, nurses, engineers and professors, migrated to the USA seeking their future, for example, to search for a good job or for advanced studies, and later, many settled there permanently.

During the sixties and especially in the seventies and eighties, the number of Indian migrant workers, both skilled and unskilled, went into the Middle East countries especially, Kuwait, Saudi Arabia, UAE, Khatar, Jordan, Oman, Yemen, Iran, Iraq. The number of migrant workers in the Middle East in 1990 was more than 400,000, of which 192,000 were in Kuwait alone. When the last war broke out in Kuwait, nearly half of these migrant workers came back to India empty-handed. However, lack of work opportunities continue to urge the Indian people to migrate to other countries.

6.2. Migration within India

Like other countries, the *internal migration* of people within India, especially rural to urban and from one state to another state, is a very common phenomenon. During the British rule, the internal migration was widespread all over India because there was a large number of employment opportunities for people, especially in the armies and other government services, in the mining industries and in the construction of roads and railways. Post-independent industrial expansion also created a mas-

¹⁴² Seeing the hardships of the Indian workers in South Africa, Ghandhi started his freedom movement in South Africa against the British colonialists. Later he returned to India and strengthened his work vigorously and continued until the independence of India.

sive internal migration to various cities and new townships within India. This movement has continued without interruption until today.

6.3. Syro-Malabar Catholic Migration

Owing to a variety of social and economic factors, the Syro-Malabar Catholics have migrated to various parts of Kerala, outside Kerala and even abroad. The first movement of migration inside Kerala began more than eighty years ago, particularly from south to north. The Eparchy of Tellicherry¹⁴³ is almost wholly made up of people who had left the region of Palai in central Kerala. Many reasons have contributed to this large scale exodus from South Kerala to the North and the adjoining areas in Mysore and Madras States. Scarcity of food supplies, monetary inflation, the great economic depression during and after the Second World War, unemployment, unavailability of land, plus some sectarian laws enacted by the then Dewan of Travancore, are the main causes of this flows of migrants.¹⁴⁴ Later this eparchy was divided into two more dioceses, Mananthavady¹⁴⁵ and Thamarassery,¹⁴⁶ for the pressing need of the pastoral care of the Syro-Malabar migrants.

The post-independent era saw the free movement and migration of Indians in this vast subcontinent. This increasing phenomenon took a new form which was also influenced by the St. Thomas Christians of Kerala, and they began to migrate all over India. They are now found in large numbers in many parts of India especially in cities and towns. Because of this vast number of the Catholic Thomas Christians, the Holy See in 1978 was moved to appoint Archbishop Mar Antony Padiyara as Apostolic Visitor of the Syro-Malabar migrants living in the Latin dioceses of India outside Kerala. After the historical visit of the Apostolic Visitor,¹⁴⁷ the saintly memory of Pope John Paul I and a historical monument in the history of the Syro-Malabar Church, his report pointed out the main

¹⁴³ PIUS XII, Apostolic Constitution *Ad Christi Ecclesiam*, AAS 46 (1954) 385-387.

¹⁴⁴ Cfr. THOMAS PAZHEPARAMPIL, *Swapnabhoomiyil* (Malayalam), Tellicherry, 1980.

¹⁴⁵ PAUL VI, Apostolic Constitution *Quanta Gloria*, AAS 65 (1973) 228-229.

¹⁴⁶ JOHN PAUL II, Apostolic Constitution *Constant non modo*, AAS 78 (1986) 908.

¹⁴⁷ S.C.E.O., Decretum, *Sedula semper sollicitudine*, dated 8 September 1978, Prot. N.287/73; cfr. AAS 70 (1978) 995; Through this decree, the Holy See wanted to appoint Archbishop

reasons of human mobility among the Syro-Malabar migrants. They are the following:

1. Over population. Kerala is the most thickly-populated state of India (548 people per square kilometer).
2. Search for jobs. Their educational institutions have raised them far above the rest of India in the matter of technical qualification for jobs.
3. Search for better living conditions. They show spontaneous readiness to go anywhere in the world, provided they can improve their living conditions. A recent survey shows that there are 14,109 of them in the well-paying, oil-rich Persian Gulf region alone.
4. Close family relations. The backbone of the Syro-Malabar community is the family where the relations between members are intimate and unbreakable. Those who migrate, therefore, gradually bring other members of their family to the new home.¹⁴⁸

6.4. Statistics on the Basis of the Apostolic Visitor's Report

Statistical data was collected first of all within Kerala with the help of the major seminarians of each diocese of the Syro-Malabar Church. They visited all the families and collected the information about Syro-Malabar Catholic members residing outside Kerala. This has enabled the Apostolic Visitor to identify the main centres of the Malabar migrants and to visit them. The following statistics give some picture about these migrants who are residing outside their habitat:¹⁴⁹

Mar Antony Padiyara as Apostolic Visitor of the Syro-Malabar Rite migrants living in the Latin dioceses of India outside Kerala in order to learn the steps taken or to be taken for the spiritual welfare of these migrant Catholics and to submit a report of the same. After having conducted a rather comprehensive survey and personal visits through the important centres, Padiyara submitted his report to the Holy See in 1980.

¹⁴⁸ ANTONY PADIYARA, *Report of the Apostolic Visitation of the Syro-Malabar Rite Emigrants Living in the Latin Dioceses of India Outside Kerala, by the Apostolic Visitor Archbishop Mar Antony Padiyara presented to His Holiness Pope John Paul II*, Rome 1980, p. 8 (henceforth, PADIYARA, *Report*). This Report is received from the diocesan archive of Jagdalpur.

¹⁴⁹ PADIYARA, *Report*, p. 15. There was some kind of attempt made in Kerala even before this collection, but it did not bear any fruit in this regard. However, we cannot say the statistics of this report are fully successful in all respects. From my personal experience I know this very well. As a student, I too participated in collecting the statistics of the Malabar

Syro Malabar Catholics under Latin Jurisdiction

Agra	233	Ahmedabad	1250
Ajmer-Jaipur	1023	Allahabad	596
Amaravathi	106	Aurangabad	22
Balasore	81	Bangalore	11529
Baroda	571	Belgaum	148
Bellary	166	Berhampur	129
Bhagalpur	93	Bhopal	567
Bombay	16904	Calcutta	1301
Cuddapah	68	Cuttack-Bhuvanesser	167
Daltonganj	214	Darjeeling	128
Delhi	4200	Dibrugarh	191
Dumka	45	Eluru	85
Goa & Daman	676	Guntur	142
Hyderabad	1125	Indore	285
Jabalpur	488	Jalpaaiguri	24
Jammu & Kashmir	117	Jamshedpur	364
Jhansi	210	Jullindur	477
Karwar	59	Khandwa	56
Kohima-Imphal	354	Krishnagar	125
Kumbakonam	30	Kurnool	67
Lucknow	321	Madras-Mylapore	5225
Madurai	204	Meerut	341
Nagpur	481	Nalgonda	56

migrants. We went to all the houses of Syro-Malabar Catholics of our own parishes in Kerala and collected informations in a very detailed manner. We experienced different attitudes of people in our work. Some were extremely happy to give the information, and some were reluctant to respond to our questions. Many people thought that it was an occasion for raising funds for various institutions, etc. Lack of time and lack of transportation facilities, especially in the hilly areas of our region, also made it very difficult to draw a very clear picture from these statistics. In the report of the Apostolic Visitor, he treated all these, including his personal experiences in great detail (cfr. Report pp. 14,16). However these statistics gives us at least some picture about the presence of the Syro-Malabar faithful in the Latin dioceses. Moreover this report was prepared more than twelve years ago, so we can imagine the increased number of migrants in the interim.

Nellore	63	Palayamkottai	66
Patna	683	Pondicherry-Cudalore	264
Poona	1541	Raigarh-Ambikapur	120
Raipur	606	Ranchi	426
Salem	355	Sambalpur	326
Shillong-Gauhati	562	Silchar	129
Simla-Chandigarh	286	Tezpur	122
Thanjavur	89	Tiruchirappalli	340
Tura	37	Tutucorin	91
Varanasi	241	Vellore	192
Vijayawada	302	Visakapatnam	518
Warangal	112		

Defence Forces

Army	3202	Airforce	1170
Navy	66		

Total = 62,926

During his visits to the most industrialized cities, the Apostolic Visitor actually met comparatively more than indicated in the above mentioned census. The following statistics shows this fact very clearly:¹⁵⁰

City Visited	No. of Faithful Visited
Ahemedbad	1200
Bangalore	10000
Bombay	25000
Calcutta	1500
Delhi	3000
Jamshedpur	1200
Madras	2000
Poona	2000

Total = 45,900

¹⁵⁰ PADIYARA; Report, p. 18.

7. Challenges and Problems in the Life of Malabar Migrants

The phenomenon of migration is above all one of suffering; a process of being uprooted from one's country of origin. These two faces of the same coin are inevitable in the life of human mobility. Sometimes it varies according to the circumstances of human mobility; for example, the sufferings of refugees and the sufferings of migrant workers are different. However, migration is a real and unavoidable fact and can be seen everywhere in the world.

Like all other migrants, the Syro-Malabar migrants are facing various challenges and problems in the course of their human mobility within India and abroad. These include exploitation in the field of work, unbrotherly attitude of the people, education problems for their children, lack of liturgical life, lack of religious instruction, loss of their identity and of the spiritual patrimony of their Church, difficulties as well as problems in family life. Let us next try to analyze these challenges and problems in a brief manner.

7.1. Exploitation of Migrants

As already noted, most of the Syro-Malabar migrants fall within the group of socio-economic or labour migration. In other words, we have a voluntary migration to procure the means of subsistence denied in one's country or to better the living standard of oneself and one's family.

Generally the exploitation of migrants begins before his departure from his native country, on the part of government, or on the part of agents and agencies. On the part of the government, migration is considered to be profitable in many cases, for reduces unemployment, brings in foreign currency and permits certain professional training. In these ways, countries can take advantage of migrants. Agents and agencies, on the other hand, often promise better jobs by means of solicitation of bribery, in most cases, failing to fulfill their promises and even outright cheating poor migrants.

Exploitation in receiving countries is still worse for these workers. The demands of production encourage clandestine migration. In such cases the migrants are forced to do more and more dangerous, laborious

and even nasty work, precisely those jobs which the local people refuse to accept. It is almost like *slavery*. Hence we can say, in the words of Vatican II, that the migrants are being used as “*mere instruments of production*” (GS nn.63, 66).

7.2. Discriminatory Attitude of the People of the Host Country

Resentment of migrants by the populace of the host country is usual. It springs in the first place from differences in language, customs, culture and religious practices. Because migrants cannot immediately adopt a new and totally different lifestyle without special preparation, reaction from the local community is swift. Migrants are always considered the most nuisancesome of people by the native population and this is usually expressed through various contemptuous expressions. Finally, natives consider migrants as lower-class workers or generally inferior persons, who may be used and treated with a condemnatory attitude and mentality. Gradually migrants feel themselves unwelcome and become distrustful in their daily affairs with native residents.

7.3. Challenges and Problems on the Family Level

Vatican II uses the term “family” as “the first and vital cell of society” and the “*domestic sanctuary of the Church*” (AA n.11). It is the “*domestic church*, the church at home, wherein the parents, or the parents and children, embody, communicate, celebrate and make concrete in their life the reality of God’s saving presence in time (GS nn.47-50).” “The family has received from God its mission to the society (AA n.11).” “The well being of the individual person and of human and Christian society is intimately linked with the healthy condition of that community produced by marriage and family (GS n.47).”

Today, the family is facing a variety of problems everywhere in the world, caused by social conditions, cultural influences, and religious convictions. The Church is conscious of these facts and wants to reaffirm her support to avoid the great challenges to the Christian family in fulfilling its mission in the modern world.¹⁵¹ Pope John Paul II, in his

¹⁵¹ JOHN PAUL II, Apostolic Exhortation *Familiaris Consortio*, AAS 74 (1982) 87-88.

apostolic exhortation *Familiaris Consortio*, pointed out the various problems of the modern Christian family and called upon the pastors of the Church to give special pastoral assistance in this regard,¹⁵² especially in the fields of “the families of migrant workers; the families of those obliged to be away for long periods, such as members of the armed forces, sailors and all kinds of itinerant people; the families of those in prison, of refugees and exiles; the families in big cities living, practically speaking, as outcasts; families with no home; incomplete or single-parent families; families with children that are handicapped or addicted to drugs; the families of alcoholics; families that have been uprooted from their cultural and social environment or are in danger of losing it; families discriminated against for political or other reasons; families that are ideologically divided; families that are unable to make ready contact with the parish; families experiencing violence or unjust treatment because of their faith; teen-age married couples; the elderly, who are often obliged to live alone with inadequate means of subsistence”.¹⁵³ All these challenges and problems make it extremely difficult for migrants to live in accord with the teachings of Gospel, and many abandon their traditional religious practices and even give up the faith altogether. By enumerating all these imminent dangers in modern society, His Holiness wanted to give special emphasis and attention to certain particular groups of people, such as migrants’ families; families which are ideologically divided, people in mixed marriages; people in irregular situations, as in the case of trial marriages or de facto free unions; Catholics in civil marriages; separated or divorced persons who have not re-married; divorced persons who have married; and those without a family. Narrating the situation of migrants the Pope continues :

The families of migrants, especially in the case of manual workers and farm workers, should be able to find a homeland everywhere in the Church. This is a task stemming from the nature of the Church, as being the sign of unity in diversity. As far as possible these people should be looked after by priests of their own rite, culture and language. It is also the Church’s task to appeal to the public conscience and to all those in authority in social, economic and

¹⁵² JOHN PAUL II, *Familiaris Consortio*, n.73, pp 170-171.

¹⁵³ JOHN PAUL II, *Familiaris Consortio*, n. 77, pp. 175-178.

political life, in order that workers may find employment in their own regions and homelands, that they may receive just wages, that their families may be reunited as soon as possible, be respected in their cultural identity and treated on an equal footing with others, ...¹⁵⁴

7.4. Lack of Religious Formation

Catechesis, which Pope Paul VI calls one of the ways of evangelization, is “an education of children, young people, and adults in the faith, which includes especially the teaching of Christian doctrine imparted, generally speaking, in an organic and systematic way, with a view to initiating the hearers into the fullness of Christian life.”¹⁵⁵ Lack of catechetical instructions of migrants results in “grave deficiencies in the religious and moral formation of the laity, especially among those working at a professional and social level”.¹⁵⁶

Lack of catechetical instruction also causes the diminution of priestly and religious vocations. As we know, by the grace of God there are plenty of religious and priestly vocations among the Malabar Christians, for religious vocations in India, both men and women, have depended on the children of St. Thomas Christians. But the lack of religious instruction in the tradition of the Malabar Church renders fruitless most vocations among the migrant Malabar Christian children.

Another common danger often seen among migrants is marriage outside the Church. Lack of religious practices and instruction, and the influence of other religions highly influence migrants to contract civil marriages.

Therefore, the phenomenon of migration calls our keen attention to provide mature catechesis proper to their own tradition to migrant children. Mature catechetical works enable them to avoid all kinds of diminution in the field of religious life and also make them apostles in the new society through their exemplary life and Christian witness. In this sense we can relate to Christian migrants the words of Pope Paul VI in his address to the members of the *Consilium de Laicis*, on 2 October 1974:

¹⁵⁴ JOHN PAUL II. *Familiaris Consortio*, n.77.

¹⁵⁵ JOHN PAUL II, Apostolic Exhortation, *Catechesi Tradendae*, AAS 71 (1979) 1277.

¹⁵⁶ *On The Move* 37 (1983) 76.

Modern man listens more willingly to witnesses than to teachers, and if he does listen to teachers, it is because they are witnesses.¹⁵⁷

7.5. Imminent Danger of Dechristianization

As we have already seen, migrants very often come from rural areas where Christianity is more a social than a personal matter. After their arrival in the large cities they are dechristianized in various ways, resulting in a severe cultural and religious shock in their own lives. This causes them to neglect the need for religious practices, and gradually the importance of religious, moral and cultural values inherent in them deteriorates. Finally, as they themselves realize that their faith is threatened, they may abandon their faith entirely.

Understanding the danger of this migratory phenomenon, we can say that migration at the present juncture has become a phenomenon of religious disintegration which leads to the process of dechristianization. Only in this sense can we digest the profound meaning of the Pope Paul VI's words in relation to the pastoral care of migrants:

It is not possible to exercise this pastoral care effectively unless due account is taken of the *spiritual heritage* and the particular *cultural background* of the migrants.¹⁵⁸

7.6. Lack of Liturgical Life

In the Constitution on the Sacred Liturgy, Vatican II says, "Liturgy is the summit toward which the activity of the Church is directed; and is the fountain from which all the power of Church flows" (SC n.10). Active participation on the part of the faithful in the liturgical celebrations is demanded by the very nature of the liturgy, such participation is their right and duty by reason of their baptism (SC n.14). Emphasizing the traditional character of the liturgy, the Council continues, "In faithful obedience to tradition, this most sacred Council declares that Holy Mother Church holds all lawfully acknowledged rites to be of equal

¹⁵⁷ PAUL VI, Address to the Members of the "*Consilium de Laicis*," AAS 66 (1974) 568.

¹⁵⁸ PAUL VI, Apostolic Letter Motu Proprio *Pastoralis Migratorum Cura*, AAS 61 (1969) 601-603.

authority and dignity; that she wishes and preserves them in future and to foster them in every way” (SC n.4).

Liturgy is not a mere matter of language, but a summary of the best traditions and spiritual attitudes of every *ecclesiae sui iuris*. By knowing the structures and symbolisms of liturgy, the faithful are integrated into the living unity of the Church. In this sense, “they are not silent spectators or strangers in the participation of the liturgy” (SC n.48). At all times, every person has well appreciated the active participation of the Malabar laity in their liturgical ceremonies, especially in the Divine Liturgy, in the sacramental administration, in popular devotions and practices, and in parish administration. Alienation from proper liturgical life and practice causes an isolation from the tradition of one’s own spiritual and religious patrimony received at birth.

7.7. Challenges in the Ecumenical Perspective

The promotion of the restoration of unity among all Christians is one of the chief concerns of the Second Vatican Council (UR n.1). This is clearly affirmed in the decree *Orientalium Ecclesiarum*, which says:

The Eastern Churches in communion with the Apostolic See have a special role to play in promoting the unity of all Christians, particularly Easterners. (OE n.24).

The Catholic understanding of the ecumenical movement consists of the principle that all humankind are to be in Christ as a path to the attainment of eternal salvation.¹⁵⁹ In responding to this Catholic understanding and especially to the Council directives, the Syro-Malabar and Malankara Churches are continuing their best efforts to foster unity with their sister churches in India.

Generally speaking, the migratory movement took on a new and ecumenical significance in Post-Vatican II times because the migrant population with its diverse groups helped to overcome existing prejudices and taboos in the modern world. The ecumenical movement always tries to foster the good of the whole society. It creates a unity within plurality,

¹⁵⁹ Cfr. ANDREW N. WOZNICKI, *Journey to the Unknown*, San Francisco, 1982, p. 39.

for the achievement of the ecumenical aspect of the migratory movement demands the co-operation of all God's people. Here we need the mentality of our first community, a common sharing for the sake of the Kingdom of God.¹⁶⁰ Treating the discord among Christians, the Decree on *Ecumenism* says that:

The restoration of unity among all Christians is one of the principal concerns of the Second Vatican Council. Christ the Lord founded one Church and one Church only. However, many Christian communions present themselves to men as the true inheritors of Jesus Christ; all indeed profess to be followers of the Lord but they differ in mind and go their different ways, as if Christ himself were divided. Certainly, such divisions openly contradicts the will of Christ, provides a stumbling block to the world, and inflicts damage on the most holy cause of proclaiming the good news to every creature (UR n.1).

The present problem of the Thomas Christians in the pastoral care of their migrants never yields any fruit in the ecumenical perspective of India. The existence of several non-Catholic Thomas Christian groups prompts us to find an immediate solution to this situation. Predominant among the non-Catholics are the Jacobites, the Anjoorians, the Anglicans and the St. Thomas Evangelical Church of India. Although taken together they are less in number than Catholics, nevertheless, they are giving adequate pastoral care to their migrants both in India and abroad to preserve their ecclesial identity within their church. Under the present conditions they can argue that if they re-unite with Rome, it would necessarily lead to their subjection to Latin jurisdiction and the abandonment of the pastoral provision which they actually enjoy.¹⁶¹

During his Apostolic Visit to India, Pope John Paul II expressed his awareness of the existing issues of inter-ritual matters and assured that he would "do everything possible to ensure a just and fair settlement of the issue."¹⁶² To solve these problems within the Church, he also exhorted the Bishops of India "to encourage close communion and collaboration

¹⁶⁰ Acts 2: 44-46.

¹⁶¹ JOSEPH POWATHIL, "Some Pastoral Problems and Inter-Church Relationship in India," in *Christian Orient* 3 (1982) 24.

¹⁶² JOHN PAUL II, *Itinera Apostolica: Delii, ad Indiae sacros praesules coram admissos*, AAS 78 (1986) 751.

between the different rites of the Church, so that in their relationship the Church may live in unity according to the will of Christ.”¹⁶³

When this unity will have been realized among the Indian Churches, the Syro-Malabar Church will have no difficulty in responding to certain questions raised by Father Pierre Duprey. The vitality of the Syro-Malabar Church in the Universal Church, as is clear from the words of Pope John Paul II himself, who observed that: “The Universal Church needs your dynamism and your apostolic and ecclesial witness.”¹⁶⁴ The following two questions are addressed by Father P. Duprey to all Orientals, particularly to the Syro-Malabar Catholics:

É concepibile una missione della Chiese Orientali Cattoliche, oggi? In questa missione quale è il ruolo dell’ecumenismo?

La cosa è possibilissima e penso che i nostri confratelli dell’India potrebbero dare un esempio di come si può rispondere a questa domanda, grazie alla Chiesa così dinamica del Malabar e dei differenti territori di missione che le sono stati affidati.¹⁶⁵

7.8. Voices of Malabar Prelates in the Synodal Hall

It is natural that the problem of Oriental Churches in India have been discussed in the synodal hall just as other problems in the Universal Church. In order to find a solution for the problem of the pastoral care of Syro-Malabar migrants living in the territories of Latin bishops outside Kerala, the bishops of the Malabar and Malankara Churches brought this problem in the attention of the Synodal Fathers in 1983 and 1985. After narrating a short history of the Thomas Christians, the same Apostolic Visitor, Mar Antony Padiyara, the then Archbishop of Changanacherry, on 6 October 1983, said in the synodal hall:

¹⁶³ JOHN PAUL II, *Delii, ad Indiae sacros...*, p. 750.

¹⁶⁴ JOHN PAUL II, *Allocutio Ad quosdam episcopos rituum Syro-Malabarici et Syro-Malankarensis, coram admissos*, AAS 78 (1985) 618.

¹⁶⁵ “Is a mission of the Catholic Oriental Churches conceivable today? In this mission what is the role of ecumenism? It really is possible and I think that our brothers of India could give an example of how can one answer this question, thanks to the dynamic Church of Malabar, of different territories and of the mission with which they have been entrusted.” Cfr. P. PIERRE DUPREY, “Lavoriamo per cambiare la mentalità dei Cristiani divisi che vivono insieme,” in *L’Osservatore Romano*, 22 Febbraio 1985, 5.

Migliaia di Siro-Malabaresi sono emigrati nelle città industriali fuori dello Stato del Kerala. Questi emigrati sono senza adeguata cura pastorale che salvaguardi la loro identità e loro tradizioni. La Chiesa Malabarese ha una grande crescita vocazionale che potrebbe essere impiegata per predicare il Vangelo che è diritto fondamentale di ogni Chiesa.¹⁶⁶

Following Mar Antony Padiyara, Benedict Mar Gregorios, Archbishop of Syro-Malankara Church, in speaking about the same matter, states:

Oltre ai turisti, ci sono anche molti pellegrini che appartengono ai riti diversi. Sarebbe bene che i vescovi dei paesi di arrivo, in ordine all'assistenza spirituale di questo genere di migranti.... Si esprime gratitudine ai vescovi d'America e di Germania per la generosa e calda cooperazione in questo campo, ma per la cura pastorale degli Orientali nella stessa India, fuori delle nostre diocesi, aspettiamo pazientemente (e talvolta non tanto pazientemente) qualche adeguato provvedimento.¹⁶⁷

The Extraordinary Synod held on 24 November 1985 in Rome was called specifically to deal with the implementation of the teachings of the Second Vatican Council in the twenty years since the Council. Like all other issues, it considered honestly the problems of the Oriental Churches in view of the Decree *Orientalium Ecclesiarum*. Joining with other Oriental Fathers, the bishops of both the Syro-Malabar and Malankara Churches gave their assessments in this regard. They unanimously pointed out and emphasized the existing problem and its consequences in the case of pastoral care of migrants and in the field of evangelization because of resistance on the part of some Latin hierarchs in India. This

¹⁶⁶ "Thousands of Syro-Malabarians have emigrated in the industrial cities outside of the State of Kerala. These emigrants have no adequate pastoral care that may safeguard their identity and traditions. The Malabar church has a great vocation growth that could be employed for the preaching of the Gospel which is the right and duty of every Church." Cfr. GIOVANNI CAPRILE, *Il Sinodo dei Vescovi*, Roma, 1984, p. 490.

¹⁶⁷ "Besides the tourists, there are also many pilgrims who belong to different rites. It would be good that the bishops of the host countries, in the area of the spiritual assistance of this kind for migrants... We express our gratitude to the bishops of America and Germany for their generous and warm cooperation in this field, but for the pastoral care of the Orientals in the India itself, outside of our dioceses, we are still awaiting patiently (and sometimes not so patiently) some adequate provision." Cfr. GIOVANNI CAPRILE, *Il Sinodo dei Vescovi*, op. cit., p. 507.

complaint was echoed even outside of the synodal hall.¹⁶⁸ Intervening in the second General Congregation, Archbishop Mar Antony Padiyara, Archbishop of Ernakulam, said:

However, the Syro-Malabar Church is denied to exercise its fundamental right of providing pastoral care to thousands of her sons and daughters who are emigrants in the major and small cities of India. This is on account of the strict insistence of the Latin heirarchs on the principle: one territory-one jurisdiction.

This is clearly against the teaching of Vatican II regarding the Oriental churches. Though the Apostolic Visitor presented his report in 1980 to the Holy Father with appropriate suggestions, practically no effective measures were taken so far in this regard. We hope that the Holy See which has to care for all the Churches will make adequate provisions to rectify this unjust situation.¹⁶⁹

On the same day, Archbishop Mar Joseph Powathil, Archbishop of Changanacherry, giving emphasis on the nature of the Church as a Communion, said:

The Syro-Malabar Church is obstructed from exercising its fundamental right and obligation for evangelization envisaged by the Vatican Council on account of the lack of provision for evangelization following one's own ecclesial tradition outside Kerala.

The present jurisdictional limitations of the Syro-Malabar Church for fulfilling her pastoral and missionary obligations and the negative attitude of some Latin Heirarchs in this regard are a real hindrance for a genuine ecumenism.¹⁷⁰

After hearing the interventions of the Indian Hierarchs both Oriental and Latin, His Beatitude, Myroslav J. Cardinal Lubachivsky, the Head of the Ukrainian Catholic Church, later commented in the same synodal hall in the following words:

¹⁶⁸ ORAZIO PETROSILLO, "I latini violano i diritti della nostra Chiesa", Accusa dei metropolitani malabaresi e malankarese. Replica di D'Souza, in *Il Tempo*, 1 Dicembre 1985, p. 23.

¹⁶⁹ *L'Osservatore Romano*, "Sinodo Straordinario 'Documenti', Gli interventi alla terza Congregazione Generale," n.1, 25 Novembre, 1985, p.3.

¹⁷⁰ *L'Osservatore Romano*, "Sinodo Straordinario 'Documenti', Gli interventi...", art. cit., p.4.

These Easterners are asking for their own priests to serve them spiritually. About four years ago I have heard of a legal difficulty in India among the Catholics. Here at the Council we have heard their Bishops on November 28th requesting Eastern Rite priests for migrating people. If we remember correctly, one of our own Brother Bishops strongly disagreed, on the basis that there is a law which says "in one location there cannot be two jurisdictions, only one, and that must be the one established first.

When Christ stood before Pilate, He also heard the people claim: "We have a law, and according to that law He must die" (Jn.19:7). Brothers, we must help these Eastern Rite Indians to live. They must be allowed to have their own spiritual leaders and their own mission for their people. We cannot allow religious suppression in the Church. The law needs to be changed for India.¹⁷¹

8. The Letter of Pope John Paul II to the Bishops of India and its Background

Without any comment on my part regarding the Latin-Oriental relations in India, I would simply like to quote the words of Fr. G. Nedungatt about this issue. Narrating the Latin-Oriental tension in India, he wrote in *The Jurist*:¹⁷²

Since the Second Vatican Council it has taken nearly a quarter century of tension and strain in Latin-Oriental relations before the Eastern Catholic Churches in India were accepted on equal terms by the Latin Church. The 'problem of rites,' as it has often been called in India, had generated into bitter polemics and threatened to spoil interecclesial relations. ...This is exactly what happened when the Roman Congregation for Oriental Churches in 1979 appointed a Syro-Malabar Archbishop Apostolic Visitor to study the problems of the Syro-Malabar emigrants living in the Latin dioceses outside Kerala. In Madras, in Bangalore, in Bombay memoranda and counter memoranda were produced in any number, pat to the tunes described above. They were then cited for the thesis and for the anti thesis. In the heat of controversy of the 'old era' most people seemed to miss the key to the interpretation of the facts. The Apostolic Visitor found that in very few places were the Syro-Malabarian emigrants getting good pastoral care; generally, they were in sad

¹⁷¹ MYROSLAV J. CARDINAL LUBACHIVSKY, "No reason to be afraid," in *Ecumenism in Danger*, ed., Chediath and Vellilamthadam, Kottayam, 1986, 91.

¹⁷² G. NEDUNGATT, "Equal Rights of the Churches in the Catholic Communion," in *The Jurist* 49 (1989) 2-16.

neglect. Hence he recommended "a change of the form and quality of their pastoral care" by placing them under Syro-Malabar jurisdiction.

After a short narration about the *Problem of the Old Era and the Rites*, he continued:

The Latin bishops as one man opposed the Visitor's recommendation to extend the Syro-Malabar jurisdiction over the diaspora. According to them his report was unscientific, his findings biased, and the conclusion unwarranted. The Oriental emigrants, they maintained, were being duly taken care of, and where needed the care could be improved without introducing Oriental jurisdiction, a measure that should be eschewed as unnecessary and not called for by the 'circumstances.' In short, the problem of rites was not a problem of the people but of the Oriental clergy and hierarchy set on a bid for power.

The Latin-Oriental controversy was aflame. The Orientals mustered all their wits, often peppered with passion, but also missing the mark, as in a futile discussion on apostolicity, or in claiming that for the East jurisdiction is personal and not territorial. From the tone of the polemics it looked as if pastoral care for and jurisdiction over the diaspora were to be the booty of a war the Orientals had to win over the Latins and not a canonical mission to be granted by the Holy See!

The Latins tried to show that in the Church jurisdiction is territorial and not personal. According to the famous canon 9 of the Fourth Lateran Council (1215), multiple jurisdiction 'is a monster with two heads on one body.' Exceptions to the rule must remain strictly exceptions.

But the lesson of double jurisdiction in India is, the Latins pointed out, that it is a fruitful source of conflicts, and it still creates problems in Kerala. It was therefore not to be extended to the rest of India in favor of the Orientals. For India was 97.4% non-Christian and a united Catholic witness free of all rite fragmentations was vital. Indeed, if the Catholics took inculturation seriously, the existing three rites should eventually converge into one single rite. In the overriding interests of evangelization, the principle 'one territory one jurisdiction' would only endanger the unity and hamper the missionary endeavors of the Church.'

Finally Rome intervened to settle this problem according to the teachings of *Orientalium Ecclesiarum*, stating that: "The Apostolic See which is the supreme arbiter of inter-Church relations will provide for all such needs in an ecumenical spirit, acting directly or through other

authorities, giving suitable rules, decrees or rescripts (OE, n.4). Again Nedungatt goes on:

Rome brought to its study of the problem of rites in India its vast experience with similar problems elsewhere in the Church universal. Not long ago, for example, Oriental catholics in the United States had difficulty in being accepted as Catholics on an equal footing by their Latin brethren. ... The Holy See asked the Latins and Orientals in India to enter into dialogue. But somehow the results unexpectedly were sparks, polemics, and mutual incriminations (casteism, ethnicity, former Nestorianism of the Orientals, groupism, Latin superiority complex, neglect of Oriental pastoral care, etc.). Finally, after long and full study, Rome acted, thus preventing further deterioration of the situation.

This is a short background history of Pope John Paul II's Letter to the Bishops of India. While treating the background of this letter, we cannot overlook the interventions of the Indian prelates in the synod halls;¹⁷³ the various requests made by the Syro-Malabar and Malankara Bishops to the Holy Father during their *Ad Limina* visits, especially in 1980¹⁷⁴ and 1985¹⁷⁵ and his reply to them; and finally the address of the Holy Father to the Indian Bishops at Delhi in 1986.¹⁷⁶

Against this background, and relying on the decrees of Vatican II, especially *Christus Dominus* n.23,3 and *Orientalium Ecclesiarum* nn. 2, 4 & 6, Pope John Paul II wrote to the bishops of India on 28 May, 1987 and gave clear-cut directives for solving the existing problem between the different *Ecclesiae sui iuris* in India.¹⁷⁷ The three main points of the Letter are as follows:

¹⁷³ Please refer to footnotes 165-169.

¹⁷⁴ JOHN PAUL II, *Allocutio Ad sacros Praesules ritus Malabarici et Malakarensis occasione visitationis "Ad limina" in Arce Gandulfi coram admissos: de liturgica renovatione*, AAS 72 (1980) 1024-1031.

¹⁷⁵ JOHN PAUL II, *Allocutio Ad quosdam episcopos rituum Syro-Malabarici et Syro-Malankarensis, coram admissos*, AAS 78 (1986) 613-619.

¹⁷⁶ JOHN PAUL II, *Itinera Apostolica Ex habitis dum Summus Pontifex Indiam peragrat delectae allocutiones*, AAS 78 (1986) 737-777.

¹⁷⁷ JOHN PAUL II, "Letter of His Holiness, Pope John Paul II to the Bishops of India," in *Christian Orient* 8 (1987) 95-98.

i. The Bishops of each of the three Rites have the right to establish their own Episcopal bodies in accordance with their own ecclesiastical legislation. The National Conference of all the Catholic Bishops of India is to continue for questions of common concern and of a national and supra-ritual character, e.g. Doctrine and Morals, Organizations of a national and supra-ritual character, questions involving the Catholic Church and the Government, etc. These areas are to be determined in the National Conference's new Statutes, to be approved by the Holy See (cfr. CD n.38; CIC cans. 449ff.).

ii. As the Decree on the Catholic Eastern Churches points out, all the Churches under the pastoral governance of the Roman Pontiff have the same rights and obligations, including what concerns the preaching of the Gospel, always *under the guidance of the Roman Pontiff* (OE n.3). It will be the task of the Catholic Bishops of India, if necessary through a Special Commission of the National Conference referred to above, to organize and coordinate the missionary activity in the country in such a way as to promote an evangelization that will be truly effective and yet avoid all danger of confusion and any spirit of rivalry.

iii. Regarding the pastoral care of the faithful of the Eastern Rites who are living in Latin Rite dioceses, in accordance with the spirit and letter of the Conciliar Decrees (CD n.23,3; OE n.4), the Latin Ordinaries of such dioceses are to provide as soon as possible for an adequate pastoral care of the faithful of these Eastern rites, through the ministry of the priests, or through parishes of the Rite, where this would be indicated, or through an Episcopal Vicar endowed with the necessary faculties, where circumstances would so indicate (CD n.23,3; CIC cans.383 §2; 476; 518). This latter may even have Episcopal rank should this be determined as fitting (CD n.23,3). Where circumstances would so indicate, the Apostolic See will establish a proper hierarchy for such faithful. This will be done through the two Roman Congregations responsible for the affairs of the Eastern and Latin Rites, and after consultation with the Latin Bishops involved.

Given the number of the Catholics of Syro-Malabar Rite in the Bombay-Pune region of India, the situation presently existing there can be considered mature enough for the establishment now of an Eparchy of the Syro-Malabar Rite. Hence I am authorizing the Congregation for the Eastern Churches to proceed accordingly.

Within one year of his historic letter on 20 May, 1988, the Holy See erected a new Syro-Malabar eparchy of Kalyan,¹⁷⁸ which is to be co-

¹⁷⁸ AAS 80 (1988) 1381-1382.

terminus with the archdiocese of Bombay and the dioceses of Pune and Nasik. This was done in accordance with canon 372 §2 of the 1983 Code of Canon Law. With the help of these two historic events, the letter of the Pope John Paul II and the erection of the new diocese of Kalyan, we may understand that the Holy See has responded to the requests of the Syro-Malabar Church to some extent and we may also hope that it will produce fruit for the Syro-Malabar Church on Indian soil and abroad.

Conclusion

We have seen very briefly the story of the growth and development of the St. Thomas Christians in India, especially in Malabar. It is a thrilling and a very enthusiastic history for those who want to deepen their knowledge about the Malabar church. Following the footsteps of the early Fathers of their Church, the Christians of Malabar led a life proper to the socio-cultural life of Malabar. It helped them to enjoy various privileges and acceptance in the midst of the existing society, even though Thomas Christians in many ways had to depend on the Chaldean Church especially, for their liturgy, discipline.

After the arrival and settlement of the Portuguese colonial authorities, the Malabar Christians were forced to struggle against them to preserve their Church's identity. They strongly fought against the Latinization mentality of the Portuguese missionaries which caused many divisions among the Thomas Christians, which led to schisms and separations. Finally, those who had adhered to the real faith achieved their dreams through the erection of an indigenous hierarchy. Followed by this new ecclesiastical setup the Syro-Malabar Church achieved tremendous progress at all levels. Without counting their migrants, the Syro-Malabar Church of St. Thomas the Apostle now numerically constitutes the second largest community among the Oriental Churches.

In the meantime we have seen that, especially in the present day, human mobility is a universal phenomenon. Large numbers of the people of the universe are involved in this tragic movement to fulfill their dreams for a better future life, and many others are taking part in the migratory movement as exiles, refugees, etc. Thus they are compelled to leave their country of origin and settle in other countries or to relocate within a country itself. Thus begin the ups and downs in their lives, not only in the

sphere of the material but also in the spheres of the spiritual, cultural, psychological and linguistic.

Dealing with the Church's attitude towards human mobility, we have, then, tried to present the reality of Indian migration. India is a democratic country, or in other words, it is a free world for her citizens. All can freely move to every nook and corner within India. Therefore, the lack of employment opportunities in their homeland urges the Syro-Malabar faithful to go outside their region in search of various jobs. The presence of these migrants, especially in the main cities of India, is compelling their mother church to extend her pastoral solicitude towards her children living without appropriate pastoral care. In order to overcome the stumbling-blocks raised by the Latin hierarchs in extending pastoral solicitude for her children, the Syro-Malabar Church has made many attempts in the last few years. However, it is not yet fully solved at the present moment.

Therefore, with great hope, the Malabar Church looks forward to the full realization of Vatican II, especially in *Orientalium Ecclesiarum*, n. 4, and the preservation of the different *Ecclesiae Sui Iuris*. In view of this teaching, the next chapter will deal with the concept of Rite in the history of the Catholic Church.

CHAPTER TWO

The Concept of *Rite* and its Historical Development

Introduction

Rites in the Church comprise the various forms of worship, institutions and disciplines, spiritual heritage, and usages which have developed from the early apostolic days as the Christian message spread throughout the various peoples of the world.¹ The traditions of the Eastern Catholic Churches, as Vatican II says, are very ancient and venerable.² The existence of various *Ecclesiae sui iuris* shows the unity in diversity within the Catholic Church.

Therefore, in the first part of this chapter we will trace briefly the various developments of the *concept of rite* from the beginning to the present. Following this, the second part of this chapter enumerates the different *Ecclesiae sui iuris* in the Oriental Catholic Churches, acquisition of membership in these *Ecclesiae sui iuris*, their equality and communion in the Universal Church, and their synodal structure. Finally, the chapter deals briefly with the four episcopal assemblies in the Indian Church as it actually operates today.

1. Origin of Rites

1.1. The Apostolic Faith Experience

The resurrection event, culminating in the Pentecostal Day, urged the Apostles to bear testimony and to preach to the entire world according to the last commandment of their divine master.³ From this same apostolic

¹ NICHOLAS HALLIGAN, "Some Inter-Ritual Norms", in *The Jurist* 42 (1982) 164.

² OE nn.10,13,22,24.

³ Mt.28:18-20; Mk.16:15; Lk.24:47-48; Jn.21:24; Act.1:8.

preaching, the evangelical seeds were sown not in the self-same soil but in a variety of soils which belong to different cultural, social and human situations.⁴ It is from this background that the variety of Churches and communities of the faithful came into existence. This diversity did not touch their interior aspect nor the visible ecclesial elements of the divine origin, but extended only to the manifestations of different human expressions and decisions according to the historical periods or cultural ambients.⁵

This is what happened regarding the theological, liturgical, ascetical and juridical functions of the Church. Excepting divine laws--for example, the genuine and precise meaning of revealed truths, and the matter and form of the sacraments--the necessity of the proper legislation, as regards both their formulation and its application are followed by different ways and norms without affecting the unity of faith and government in the Church. Thus a theological, liturgical, ascetical and proper juridical patrimony was formed around these communities. This is not only their wealth but the wealth of the whole Church, which considers it as a sign of her Catholicity and Apostolicity. It is a proof that the same Church is destined for all peoples and it is related to the apostolic origin of Christianity, to the apostles.⁶

1.2. The Socio-Cultural Background

The socio-cultural environments, philosophical systems, national and ethnic tendencies, as well as the needs of different places spontaneously contributed towards the development of different rites in the Catholic Church. Thus the liturgy which is one in substance, became multiplex in the way of its performance and gave rise to the development of liturgical types, each different from the others in shape and structure, i.e., individuality or physiognomy.⁷ In short, differences in the cultural and

⁴ ANTONINO M. ABATE, *I Ministeri nella Missione e nel Governo della Chiesa*, Roma, 1976, p. 12 (henceforth, ABATE).

⁵ ABATE, "I Ministeri nella Missione...", art. cit., p. 12.

⁶ ABATE, "I Ministeri nella Missione...", art. cit., p. 12; PLACID J. PODIPARA, *Reflections on Liturgy*, Kottayam, 1983, pp. 18-19.

⁷ PLACID, *Reflections on Liturgy*, op. cit., p. 18.

theological formation, as well as in the psychological and national tendencies of the people, contributed to the formation of different Churches.⁸

1.3. The Oriental-Occidental Division

The Oriental-Occidental division is historically based on the jurisdictional division of the Roman Empire after the death of Theodosius under the Emperors Honorius and Arcadius in the year 395.⁹ All the local Churches in the Eastern Roman Empire and those which received Christianity from these Churches are generally called Eastern Churches, while the Church developed in the Western Roman Empire and those which received Christianity from it are called Western Church.¹⁰

The division into Oriental and Occidental on the basis of the political division of the Roman Empire was not a perfect norm because there existed Oriental Churches also outside the Roman Empire, such as Egypt, Persia and India.¹¹ So we cannot think of the division in a purely geographic sense. The Nestorian (431) and the Monophysite heresies (451) as well as the later Byzantine Schism not only broke the union with the Western Church but also influenced the development of new canonical rites or autonomus Churches.¹² The Church of the Latin Rite has spread over all the world, and is still designated Western not only in Europe and America but also in India, the Philippines, Pakistan, China and Japan etc. Conversely, today, at the beginning of the 20th century,

⁸ M.M. WOJANAR, "Rites, Canonical", in *NCE* 12 (1967) 515.

⁹ G.W. BASSET, *The Determination of Rite*, Roma, 1967, p. 9.

¹⁰ MIROSLAV S. MARUSYN, "The Oriental Catholic Churches", in *The Code of Canons of the Oriental Churches: An Introduction*, ed., C. Gallagher, Rome, 1991, p. 20; GORDILLO, *Compendium Theologiae Orientalis*, Rome, 1950, p. 2.

The division of the Roman Empire was not the cause of the Oriental rites. The growth of different Churches or rites began from the apostolic period. Antioch, Jerusalem and Alexandria were great centres of Christianity from the very beginning, each with its own liturgy and discipline. The Roman Empire caused only the origin of the 'general names' Eastern and Western. Otherwise each of these Churches would have been known by its own proper name, viz. Alexandrian Church, Antiochean Church, Roman Church, etc.

¹¹ PLACID J. PODIPARA, *Paurasthyasbhakal* (Malayalam), Mannanam, 1930, p. 1.

¹² Cfr. WOJANAR, "Rites, Canonical", art. cit., p. 515. The Council of Nicea (A.D. 325) condemned Arianism: the Council of Ephesus (431) condemned Nestorianism and the Council of Chalcedon (451) condemned Monophysitism.

Eastern Churches are found all over the globe, mainly through large scale migrations into Western Europe, America, Canada and Australia.¹³

1.4. Heresies and Further Divisions

Another reason for the development of different autonomous Churches and their derived rites from the five original types was the phenomena of heresies. The schisms of the 10th and 11th centuries culminated in the excommunication of the Patriarch of Constantinople, Michael Cerularius, by Pope Leo IX when the Bull *Dilectis Filiis Ecclesiae Catholicae*, was solemnly laid upon the high altar of the Church of the Holy Wisdom by the papal legation on 16 July 1054.¹⁴ Thus the Byzantine Empire, the Orthodox Church of the East, was completely separated from Rome. Consequently, out of the principle of autocephaly, were born the autonomous national Churches.¹⁵ When portions of these Churches were reunited with Rome, they retained the liturgical, spiritual and theological patrimony which they developed during the long years of separation and independence.¹⁶ This happened also in the history of the Syro-Malankara Church after reunion with Rome in 1930.¹⁷ The Holy See, as a rule, always respected the liturgical rites and ceremonies, correcting only where heterodox expressions had crept in.¹⁸ Thus we can see that more autonomous churches came into existence in the course of time in the main rites of the Oriental Churches.

¹³ NEDUNGATT, "Equal Rights of the Churches in the Catholic Communion", in *The Jurist* 49 (1989) 4.

¹⁴ MIGNE, PL CXLIII, col.1001-1004; BASSET, *The Determination of Rite*, op. cit., p. 10.

¹⁵ BASSET, *The Determination of Rite*, op. cit., p. 11.

¹⁶ BASSET, *The Determination of Rite*, op. cit., p. 11.

¹⁷ CYRIL MALANCHARUVIL, *The Syro-Malankara Church*, Emakulam, 1974, pp. 126-128.

¹⁸ This principle, the preservation of the liturgical rites, was already affirmed by Leo IX to the letter to Michael Cerularius: "For the Roman Church knows that different customs in time and place are no obstacle to the salvation of believers when one faith, doing what good one can in charity, commends everyone to the one God" (MANSI, XIX, col.652). Cfr. MARUSYN, "The Oriental Catholic Churches", art. cit., p. 21.

2. Etymology and Original Usage of the term Rite

Originally, the Latin word *Ritus* had a liturgical meaning.¹⁹ In the Roman classics, as well as in St. Jerome's Vulgate translation of the Bible, the words *ritus* and *caeremonia* were used interchangeably.²⁰ Among the Romans the word **rite** denoted customs and sometimes religious act, especially in administering the sacred functions.²¹ For example in the Digesta, the second title of Book XXIII is given as *De ritibus nuptiarum*. In the sixty-eight paragraphs that follow there is not a single reference to either cult or a religious ceremony.²² For Forcellini the term means the laws of contracting marriage.²³ It can be concluded, therefore, that in the Roman world the word *ritus* signified principally the manner, ceremony, custom or formality of doing something of religious or legal import, or the ensemble of such acts related to a single institution.²⁴

Going through the various rescripts of the popes and other documents, especially various ecumenical councils until the Council of Florence, the largest, most determined and last universal council specifically directed towards reuniting East and West, Basset concludes that the concept of rite itself was vague, its usage indefinite and even contradictory. Departing from the prime analogate in classical Latin of a sacred act or liturgical function, its use was extenuated far beyond the liturgy. Customs and traditions, particular law, jurisdiction and the complex of religious regulations, discipline and even elements of faith are included in the term rite.²⁵

¹⁹ H. DAUSEND, *Das Territoriale Recht im Codex Iuris Canonici*, Paderborn: Schöningh, 1939, p. 48.

²⁰ BASSET, *The Determination of Rite*, op. cit., p. 22.

²¹ "...ceterum **ritus** est mos et approbata consuetudo et praecipue in sacris administrandis." in Forcellini, *Totius Latinitatis Lexicon*, vol. IV, 960, quoted by A. HERMAN, "De Ritu, in Jure Canonico," in *Orientalia Christiana* 32 (1933) 96.

²² A. JOUBEIR, *La Notion Canonique de Rite: Essai historico-canonique*, Analecta Ordinis S. Basilli Magni, Ser. 2, sec. 1, vol. 14, Roma, 1961, p. 4.

²³ "Ritus nuptiarum sunt leges de matrimonio ineundo". FORCELLINI, *Totius Latinitatis Lexicon*, vol. IV, Patavii: Typis Seminarii, 1827-1831, p. 960, quoted in BASSET, *The Determination of Rite*, op. cit., p. 22.

²⁴ BASSET, *The Determination of Rite*, op. cit., p. 23.

²⁵ BASSET, *The Determination of Rite*, op. cit., p. 33.

3. Rite in the Teachings of Popes and Councils

Because of the ambiguity, confusion and variety of interpretation given to rite in its various usages in previous years, the decrees of the *Council of Florence* for the Orientals deliberately avoided the term rite and substituted terms, such as *mos*, *consuetudo*, *natio*, where rite had been used earlier.²⁶ The union bulls, produced by the *Councils of Ferrara, Florence* and later in *Rome* drafted for the Greeks, Armenians, Copts, Syrians, Chaldeans and Maronites referred to them as nations and peoples,²⁷ but never as rites. Concerning the liturgical usage, for example, for the practice of using leavened or unleavened bread in the Holy Eucharist, the term *custom* is used rather than rite.²⁸ To forbid the change of rite, *Pope Nicholas V* issued a decree in 1448 and made rite a canonical attribute of a particular people or community.²⁹ With the *Council of Trent*, the term rite received an almost exclusively liturgical application, where in five sessions the Council used the terminology *ritus ac caeremoniae* in eight different places,³⁰ with various meanings such

²⁶ BASSET, *The Determination of Rite*, op. cit., p. 34.

²⁷ At the time of Union with the Armenians the Bull says: "Nam et pridem magnam illam Graecorum unionem multas longe lateque continentium nationes et linguas, hodie vero hanc ipsam Armenici populi, qui per septentrionem et orientem in magna copia diffusus est, in eodem fidei et caritatis vinculo cum sede apostolica stabilivit". Cfr. *Conciliorum Oecumenicorum Decreta*, a cura di Centro di Documentazione Istituto per le Scienze Religiose, Bologna, Roma, 1962, n.5, p. 511 (henceforth COD). At the Copt's Union time the Bull says: "Primo etenim Graeci et hi, qui subsunt quatuor patriarchalibus sedibus multas gentes nationesque et idioma continentibus, deinde Armeni, multorum populorum gens, hodie vero Jacobiti, magni etiam per Aegyptum populi, sanctae sedi apostolicae uniti sunt." Cfr. COD, n.30, p. 544.

²⁸ "Item in azymo sive fermentato...unumquemque scilicet iuxta suae ecclesiae sive Occidentalis sive Orientalis consuetudinem". Cfr. COD, n.15, p.503.

²⁹ "Pervenit ad aures nostras, quodin locis, quae Catholicis in Graecia subjecta sunt, multi catholici praetextu unionis ad Graecos impudenter transeunt ritus. Mirati admodum sumus mirarique non desistimus, nescientes quid sit, quod eos a consuetudine ac ritibus, in quibus nati enutritique sunt in alienigenarum ritus transposuit; nam, etsi laudabiles Orientalis Ecclesiae ritus sint, non licet tamen Ecclesiarum ritus miscere, neque id unquam Sacrosancta Synodus Florentina permisit." Cfr. *Collectio Lacensis*, vol.II, col. 601.

³⁰ Session VII, De Sacramentis in genere, can.13; Session XIV, De Sacramento Extreme Unctionis, can.3; Session XXII, De Sacrificio Missae, Capitulo 5, cans. 7 & 9; Decretum de observandis et evitandis in celebratione Missae; Session XXIII, De Sacramento Ordinis, can.5; and Session XXIV, De Sacramento Matrimonii, can.11.

as blessing,³¹ anointing,³² vestments and external gestures,³³ and *mysticas benedictiones, lumina, thymiata, vestes aliaque id genus*.³⁴

Later *Pope Clement VIII*, in his *Instructio Super Aliquibus Graecorum*, of 30 August 1595, clearly departs from the Tridentine norm and once again intends by the term rite the whole constitution of a particular community, its discipline and practice.³⁵

Pope Benedict XIV, through his encyclical letter *Allatae sunt*,³⁶ promulgated on 26 May 1755, made the division of the Oriental rites into the four major liturgical families such as Greek, Armenian, Syrian and Coptic.³⁷ It was the first official document in the history of the Catholic Church which distinguished the Oriental Catholics by different rites.

Pope Pius VI, in his encyclical letter *Catholicae Communionis*, promulgated on 24 May 1787, speaks of rites and ceremonies, against which are contrasted usages, institutions and customs, and added in the first Arabic translation of the Roman Catechism that these are the usages of the Latins from which the Orientals were to be exempt.³⁸

Pope Pius IX, in his encyclical *In suprema* (1848) promised to do everything in his power to preserve the esteemed Oriental liturgies. With this promise he indicated that preservation of rite meant preservation of

³¹ "Benedictiones et alias caeremonias", Session XXIV, can.11.

³² Session XXIII, can.5

³³ Session XXII, can. 7.

³⁴ Session XXII, can. 5.

³⁵ Bull SCPF, vol. I, 1-4.

³⁶ BENEDICT XIV, Encyclical Letter "Allatae sunt," in *Opera Omnia*, vol.17, Prati, 1839-1846, pp. 249-272; *Fontes CIC*, vol.II, n.434, pp. 456-474.

³⁷ §3. "Orientalem autem Ecclesiam omnibus notum est quattuor Ritibus, constare, Graeco videlicet, Armeno, Syriaco et Coptico, qui sane Ritus universi sub uno nomine Ecclesiae Graecae, aut Orientalis intelliguntur, non secus ac sub Ecclesiae Latinae Romanae nomine, Ritus Romanus, Ambrosianus, Mozarabicus, et varii peculiare Ritus Ordinum Regularium comprehenduntur." Cfr. *Fontes, CIC*, vol.II, n.434, p. 458.

³⁸ "...ritibus ac caeremoniis pro sacramentorum administratione edisserantur, quae Ecclesiae Latina disciplinae consona sunt, ac a vestris proinde usibus, atque institutis plerumque differunt, velle nos, ut sanctissimas Orientalis Ecclesiae consuetudines..." DE MARTINIS, vol.4, p.318, cited in BASSET, *The Determination of Rite*, op. cit., p. 56.

liturgy.³⁹ Shortly after the setting up of the Oriental Section of the Propaganda, he once more affirmed the mind of the Holy See in regard to the preservation of the purity of the Oriental Rites. In his encyclical letter on the Oriental Rites, *Amantissimi humani generis*, he condemned those who still stood for Latinization.⁴⁰ Finally, through his apostolic letter *Non sine gravissimo*, he ordered the unification of canonical discipline throughout the whole Church to avoid the confusion that existed between discipline and rite as well as the re-establishment of what had been altered or destroyed.⁴¹

4. The Schema De Ritibus in the First Vatican Council⁴²

Pope Pius IX set the commission, *Super Missionibus et Ecclesiis Orientalis*, to prepare the Schema *De Ritibus*, to be presented in the Council. The commission found it very difficult to formulate a definition of rite which was compatible with the Pope's concept of rite as liturgy.⁴³ However the opinion of the members of the commission was that the Council should take a strong stand on the matter of Oriental discipline.

³⁹ PIUS IX, Encyclical Letter "In Suprema," in *Pii IX Pontificis Maximi Acta*, Roma, vol. I, pars. I, Roma, pp. 78-91. "Omnino autem sartas tectas hebebimus peculiare vestras Catholicas Liturgias; quas plurimi sane facimus, licet illae nonnullis in rebus a Liturgia Ecclesiarum Latinarum diversae sint.... Ad hanc Sedis Apostolicae rationem erga Catholicas Orientalium Liturgias plura spectant Romanorum Pontificum Decreta, et Constitutiones, quae de illis conservandis latae sunt". p. 81.

⁴⁰ PIUS IX, Encyclical Letter "Amantissimi humani generis," in *Pii IX Pontificis Maximi Acta*, vol. III, pp. 424-436.

⁴¹ §5. "Qua in re ne praetermittas Armenos omnesque Orientales edocere, quantum discriminis disciplinam inter et ritum intercedat, cuius utriusque confusio illorum fidelium mentem perturbat... Equidem Nos una cum Praedecessoribus Nostris Orientales ritus servandos esse declaravimus, quoties neque Fidei et unitati catholicae repugnarent, neque ecclesiasticae derogarent honestati. Quod quidem minime impedit, quominus, in his praesertim quae Ecclesiasticum regimen respiciunt; canonica disciplina quoad praecipua saltem capita ubique cohaereat, et ubi incerta vel collapsa fuerit restituatur." Cfr. Litt. Apost. "Non sine gravissimo," 24 February, 1870, in *Pii Pontificis Maximi Acta*, vol. V, pp. 129-135; *Fontes CIC*, vol. III, n. 555.

⁴² This schema *De Ritibus* was never discussed by the First Vatican Council nor did it ever receive pontifical approval. Cfr. HERMAN, "De Ritu in Iure Canonico," art. cit., p. 101. But this schema and the minutes of the thirty seven long meetings held to deliberate its contents between 21 September 1867 and 9 May 1870 are a rich and valuable source of information. Cfr. BASSET, *The Determination of Rite*, op. cit., p. 62.

⁴³ BASSET, *The Determination of Rite*, op. cit., p. 62.

Most of the members were convinced that the source of difficulties was a dualism which existed between the discipline of the East and West, that is, "*dualismum inter disciplinam orientalem et occidentalem*".⁴⁴ Finally the commission decided to preserve the liturgical customs and usages,⁴⁵ but introduced the distinction between primary and secondary liturgical rites. Through this act the commission also accepted some kind of canonical autonomy among the different groups of Oriental Christians (i.e., those who belonged to the same primary rite--Greeks, Melkites, Russians, Bulgarians, Serbians, Rumenians, etc.--constitute the Bizantine Rite).⁴⁶

5. Encyclical Letter *Orientalium Dignitas* of Pope Leo XIII

With the help of the encyclical letter *Orientalium Dignitas*, Pope Leo XIII wanted to establish a fundamental discipline for all the Oriental Rites in the Near East.⁴⁷ Throughout this letter the Pope used the term rite in the canonical sense and admitted the *sui iuris* character of different ecclesiastical communities which belong to the five liturgical families, hierarchically distinct from the others, but all subject to the Roman Pontiff.⁴⁸

In reference to ritual membership and jurisdiction, can. IX of the same letter stated that even though an Oriental may be outside the patriarchal territory and under the administration of the Latin clergy, he remains ascribed to his own proper rite. If he should return to the patriarchal territory, he is immediately subject to the patriarch of his own rite.⁴⁹ Besides this principle Pope Leo XIII gave permission to all Orien-

⁴⁴ MANSI, vol.49, col.987; HERMAN, "De Conceptu "Ritu," art. cit., p. 337.

⁴⁵ MANSI, 53, col. 897.

⁴⁶ I. ZUZK, "Che cosa è una Chiesa, un Rito Orientale?", in *Seminarium* 15 (1975), p. 264; BASSET, *The Determination of Rite*, op. cit., p. 66.

⁴⁷ LEO XIII, Apostolic Letter *Orientalium Dignitas*, 30 November 1894; *Fontes CIC*, vol.III, n.627, 454-459; *Collectanea*, vol.II, n.1883; *Leonis XIII*, Acta, Roma, 1881-1905, vol.XIV, pp. 195-214.

⁴⁸ ZUZK, "Che cosa è una Chiesa,...", art. cit., pp. 264-265.

⁴⁹ Can.IX, "Quicumque Orientalis, extra patriarchale territorium commorans, sub administratione sit cleri latini, ritui tamen suo permanebit adscriptus; ita ut, nihil diuturnitate aliave causa ulla suffragante, recadat in ditionem Patriarchae, simul ac in eius territorium reverit".

tal Catholics who had transferred to the Latin rite to return to their former rite on petition to the Holy See.⁵⁰

6. Codex Iuris Canonici of 1917 and the Concept of Rite

In the Code of Canon Law the term *rite* is used in multiple and ambiguous ways, taking its usage from the different liturgical and inter-ritual sources applied in the codification. The main distinction, given by the CIC 1917,⁵¹ was the liturgical and canonical significance in the usages of the word rite.

6.1. Rite in the Liturgical Sense

The word rite can mean a formal liturgical or religious act as contained in the approved liturgical books.⁵² Following the Tridentine sense rite is indicated by rubrical regulations and is frequently linked with ceremonies.⁵³ The rite can also mean a complex of liturgical acts and ceremonies that together comprise one single action, as the conferral of a sacrament or sacramental.⁵⁴

Another meaning of rite is the universal complex of liturgical laws and customs which show the distinction between the Latin Church and the Eastern Churches.⁵⁵ In this sense, there are five generic liturgical

⁵⁰ Can.VII. "Orientalibus qui ritum Latinum, etiamsi ex pontificio rescripto susceperint, revertere ad pristinum, Apostolica Sede exorata, licebit".

⁵¹ *Codex Iuris Canonici* of 1917 (henceforth, CIC 1917).

⁵² CIC 1917 can. 1169 §2 "Etiam ecclesiarum campanae debent consecrari vel benedici secundum ritus in probatis liturgicis libris traditos." Cfr. cans. 1148 § 1; 1174 §1; 1205 §1; 1206 §3; and 733 §1.

⁵³ The expression *Ritus et caeremoniae* is used frequently in the 1917 Code. Cfr. cans.2; 249 §1; 253 §1; 755-760; 814-820; 823 §2; 851 §1; 866; 945-947; 1002-1005; 1100; 2141; and 2378.

⁵⁴ For example, conferral of a sacrament or a sacramental: cans. 789; 1993 §3; 576 §1; 1171; 1181; 1262 §2; 1102 §2 and 2270 §1-2.

⁵⁵ Can.1 clearly distinguishes the *Ecclesia Latina* and the *Ecclesia Orientalis*: "Licet in Codice iuris canonici Ecclesiae quoque Orientalis disciplina saepe referatur, ipse tamen unam respicit Latinam Ecclesiam, neque Orientalem obligat, nisi de iis agatur, quae ex ipsa rei natura etiam Orientalem afficiunt."

Can.1004 says, "Si quis, ritu orientali ad aliquos ordines iam promotus, a Sede Apostolica indultum obtinuerit superiores ordines suscipiendi ritu latino, debet prius ritu latino recipere ordines quos ritu orientali non receperit."

According to the can. 257 §1. "Congregationi pro Ecclesia Orientali praeest ipse Romanus

types and paraliturgical types used in the Oriental Churches,⁵⁶ namely *Alexandrian, Antiochean, Armenian, Constantinopolitan and Chaldean*.⁵⁷ All the liturgies preserved in the Oriental Churches today are derived from these five original sources. Together with the liturgy used in general in the Latin Church there are six liturgical rites used in the Catholic Church today.

6.2. Rite in the Canonical Sense

Before the development of the canonical sense of rite, many commentators on the CIC proposed that the liturgical notion of rite did not exhaust the meaning of the term. So based on can. 98 of the CIC 1917, *G.Michiels*, who was the first to introduce the clear notion of juridical or canonical rite to the terminology of Canon Law, said that rite is a determined Church, ruled by its own peculiar traditional laws and customs, not only in regard to the form of its liturgy but also in its hierarchical constitution, regime, and discipline.⁵⁸ Later, this definition of Michiels was accepted substantially by *Cicognani-Staffa* in their *Commentarium ad Librum Primum Codicis Iuris Canonici*.⁵⁹

According to *E.Herman*, a rite is an ordered complex of the laws and customs by which the total ecclesiastical life of one part of the Church and its subjects is regulated.⁶⁰ In arriving at this notion of rite he

Pontifex. Huic congregationi reservantur omnia cuiusque generis negotia quae sive ad personas, sive ad disciplinam, sive ad ritus Ecclesiarum Orientalium referuntur, etiamsi sint mixta, quae scilicet sive rei sive personarum ratione latinos quoque attingant."

⁵⁶ H. CICOGNANI- D. STAFFA, *Commentarium ad Librum Primum Codicis Iuris Canonici*, Romae, 1939, vol.I, pp. 12-13; A. COUSSA, *Epitome Praelectionum de iure Ecclesiastico Orientali*, Grottaferrata, 1948, vol.I, p. 12; HERMAN, "De 'Ritu' in Jure Canonico," art. cit., p. 113.

⁵⁷ G. DE VRIES, *Oriente Cristiano Ieri e Oggi*, Roma, 1949, p. 14.

⁵⁸ "...substantialiter idem designet ac Ecclesia determinata, quae peculiaribus regitur legibus et usibus antiqua traditione innixis, non solummodo ad universam liturgiae formam quod attinet, sed etiam vero quod spectat ad hierarchicam constitutionem, regimen atque disciplinam". Cfr. G. MICHIELS, *Principia Generalia de Personis in Ecclesia*, 2nd ed., Tomaci, 1955, p. 260.

⁵⁹ CICOGNANI-STAFFA, *Commentarium ad Librum Primum Codicis Iuris Canonici*, Roma, 1939, vol.I, pp. 12-13. This definition is also quoted in BASSET, *The Determination of Rite*, op. cit., 86; ZUZEK, "Che cosa é una Chiesa, ..," art. cit., p. 265.

⁶⁰ "Ritus est ordo iuris ecclesiastici quo non solum res liturgicae sed universa quoque disciplina unius partis Ecclesiae universalis ordinatur. Est enim non multitudo legum per se

relied on cc.98 and 756 of the CIC 1917, which treat of ascription in a rite, change from one rite to another, the baptism and ascription into a rite in case of mixed marriages, and other inter-ritual relations.⁶¹ Later, in view of the possibility of the promulgation of one code for all the Oriental Churches, which would have upset the foundation of this definition by subtracting a major part of the law followed in a particular rite from this separate ecclesiastical order, Herman substituted the group itself as the essential element of a definition instead of its juridical order.⁶² Therefore, in his second definition he defined rite as a group of faithful, ruled by their own proper laws and customs drawn from ancient tradition, not only in regard to liturgy, but also determining their own canonical discipline, which group is acknowledged by the Holy See as autonomus and distinct from every other such community.⁶³ For *Pospishil* it is the best definition of the term *rite* from the canonical point of view.⁶⁴ When we compare

stantium, sed ordinatus complexus legum et consuetudinum quo tota vita ecclesiastica illius partis Ecclesiae et subditorum eius ordinatur". HERMAN, "De 'Ritu' in iure Canonico," art. cit., p. 105.

⁶¹ Can.98 §1. Inter varios catholicos ritus ad illum quis pertinet, cuius caeremoniis baptizatus fuit, nisi forte baptismus a ritus alieni ministro vel fraude collatus fuit, vel ob gravem necessitatem, cum sacerdos proprii ritus praesto esse non potuit, vel ex dispensatione apostolica, cum facultas data fuit ut quis certo quodam ritu baptizaretur, quin tamen eidem adscriptus maneret.

§2. Clerici nullo modo inducere praesumant sive latinos ad orientalem, sive orientales ad latinum ritum assumendum.

§3. Nemini licet sine venia Apostolicae Sedis ad alium ritum transire, aut, post legitimum transitum, ad pristinum reverti.

§4. Integrum est mulieri diversi ritus ad ritum viri, in matrimonio ineundo vel eo durante, transire; matrimonio autem soluto, resumendi proprii ritus libera est potestas, nisi iure particulari aliud cautum sit.

§5. Mos, quamvis diuturnus, sacrae Synaxis ritu alieno suscipiendae non secumfert ritus mutationem.

Can. 756 §1. Proles ritu parentum baptizari debet.

§2. Si alter parentum pertineat ad ritum latinum, alter ad orientalem, proles ritu patris baptizetur, nisi aliud iure speciali cautum sit.

§3. Si unus tantum sit catholicus, proles huius ritu baptizanda est.

⁶² BASSET, *The Detrmination of Rite*, op. cit., p. 86.

⁶³ "Coetus fidelium qui propriis regitur legibus et usibus antiqua traditione innixis, non solum quod ad res liturgicas sed etiam ad canonicam disciplinam attinet, et qui tamquam autonomus et a ceteris distinctus a S.Sede agnoscitur". HERMAN, *De Conceptu 'Ritus'*, art. cit., p. 339.

⁶⁴ VICTOR J. POSPISHIL, *Code of Oriental Canon Law: The Law on Persons*, Ford City, 1960, p. 9.

with these two basic definitions, *Michiels* gives more importance to the element of hierarchy than to the legal element in rite. However, we cannot avoid significant element in *Herman's* definition, that is, acknowledgement on the part of the Holy See.

For *Basset*, the traditional meaning of a *Church* as a particular community of the faithful corresponds to the usage of rite in the Code and to the tradition of inter-ritual legislation and juridical practice. So CIC cc.782 §4, 819, 820, 851, 866, 881, 905, 955, 966, 1004 and 1006 §4, in addition to cc.98 and 756, use rite in this canonical sense as a particular church.⁶⁵

7. The Concept of Rite in the Oriental Legislation

When the Pontifical Commission for the Redaction of the Code of Oriental Canon Law began its work in 1935,⁶⁶ the members were not sure of the exact meaning of the term rite in canonical terminology.⁶⁷ On the one hand, there existed the disparity of disciplinary practices among the communities attached to the same liturgical rites and, on the other, there existed the concept of canonical rite which had been illustrated in CIC

⁶⁵ BASSET, *The Determination of Rite*, op. cit., p. 87.

⁶⁶ AAS, 27 (1935) 306-308. On 25 June 1935, Pope Pius XI established the *Pontificia Commissio Codicis Orientalis Redigendo*. Before the establishment of this Commission there existed a *Collegio o Consiglio di Presidenza*, started in 3 August 1927, by Pope Pius XI according to the recommendation of the Sacred Congregation of the Eastern Churches with himself as president. Cfr. ZUZÉK, "Les Textes non publiés du Code de Droit canon oriental," *Nuntia*, 1 (1975) 121-137. This council functioned until 13 July 1929, when the name was changed to the Commissione per la Codificazione Orientale sotto la presidenza dei Cardinali: P. Gasparri, L. Sincero, B. Ceretti e F. Ehrle della Sacra Congregazione Orientale. Cfr. DANIELE FALTIN, *La Codificazione del Diritto Canonico Orientale: La Sacra Congregazione per le Chiese Orientali nel Cinquantesimo della Fondazione*, Rome, 1967, pp. 121-137. On 27 November 1929, Pope Pius XI constituted the Commissio Cardinalitia pro Studiis Praeparatoriis Codificationis Orientalis. Cfr. AAS, 21 (1929) 669. The first meeting was held on 24 February 1930, and recommended that there be one code for the entire Catholic Church which could take into account the particular disciplinary matters of the Eastern Churches. Cfr. Daniele Faltin, *La Codificazione Diritto canonico Orientale*, p.128. This idea was rejected by Pope Pius XI. Cfr. DANIELE FALTIN, p.128. The work of this commission continued till the establishment of the *Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo*. Cfr. JOHN D. FARIS, "The Codification and Revision of Eastern Canon Law", in *Studia Canonica* 17 (1983) 449-485.

⁶⁷ ZUZÉK, "Che cosa é una Chiesa...", art. cit., p. 265.

1917.⁶⁸ As a consequence different schemata were made for *De Ritibus* which included the enumeration of all the Oriental churches.⁶⁹ This was rejected because of ambiguity and on the principle that a Code should not enumerate which communities are *rites*, but only describe the norms to be verified for the recognition of a community of faithful as a rite in the canonical sense.

On 25 June 1941 the schema *De Ritibus* was submitted to the Plenary Session of the cardinal members of the Commission for the Oriental Code. The first canon of the schema read as follows:

Orientales ritus de quibus Codex statuit sunt alexandrinus, antiochenus, byzantinus, chaldaeus et armenus qui primarii habentur alique ritus quos, licet derivatos, uti autonomos expresse vel tacite agnoscit Ecclesia.⁷⁰

The commission of the cardinals accepted the canon with some amendments including the change of the name byzantinus to constantinopolitanus, because the Byzantine kingdom was extended beyond the confines of the Constantinopolitan rite, that is, Antioch and Africa were part of the same kingdom. This was the first time the canons on the rites came to be discussed and approved in the history of the codification of the Eastern Canon Law. When the text was submitted to the Supreme Pontiff on 31 October 1941, it provided:

Orientales ritus de quibus Codex decernit sunt alexandrinus, antiochenus, constantinopolitanus, chaldaeus et armenus, alique ritus quos uti autonomos expresse vel tacite agnoscit Ecclesia.⁷¹

7.1. The Motu Proprio Postquam Apostolicis Litteris

In the third draft of the CICO⁷² (1943) this canon was removed from the canons *De Ritibus* and put under the title of *De verborum significatione* without any modification, except addition of the word *hic* in front of the word *Codex*.⁷³ Finally, the canon was promulgated on 9

⁶⁸ BASSET, *The Determination of Rite*, op. cit., p. 88.

⁶⁹ ZUZEK, "Che cosa é una Chiesa,..." art. cit., pp. 225-266.

⁷⁰ ZUZEK, "Che cosa é una Chiesa, ...," art. cit., p. 267.

⁷¹ ZUZEK, "Che cosa é una Chiesa, ...," art. cit., p. 267.

⁷² It means "Codex Iuris Canonici Orientalis".

⁷³ ZUZEK, "Che cosa é una Chiesa, ...," art. cit., p. 267. Here put the word *hic* in front of the word *Codex*.

February 1952, as can.303 §1 in the motu proprio *Postquam Apostolicis Litteris* together with minor changes.⁷⁴ The text of canon 303 §1 is:

Ritus orientales de quibus canones decernunt sunt alexandrinus, antiochenus, constantinopolitanus, chaldaeus et armenus, alique ritus quos uti sui iuris expresse vel tacite agnoscit Ecclesia.⁷⁵

This canon clearly reflects the two distinct aspects in relation to the liturgical and canonical notions of rite within the general norm *de quibus canones decernunt*, which is basically a legal norm for the general and specific division of the rites.⁷⁶ The rites actually mentioned in the canon are identified by historical-liturgical criteria, in relation to the division commonly accepted by various authors.⁷⁷ For Wojnar and Joubair, this canon gives us strictly a canonical criterion⁷⁸ in which rite is measured as *explicitly or tacitly acknowledged by the Church as autonomous or sui iuris*.⁷⁹ Although the phrase *alique ritus* pointed out the actually existing, autonomous rites, to be such and technically denominated in Canon Law as rites, these are not the liturgical rites, because they are *sui iuris*. In legal terminology *sui iuris* can be applied only to a juridically independent and self-subsistent physical or moral person and it can hardly be applied to a system of laws.⁸⁰

The canonical sense of rite is very clear in the canons related to the ascription to a determined rite by means of baptism and change from one rite to another. For example, the canons of the motu proprio *Cleri Sanctitati* under the title of *De Ritibus Orientalibus* clearly mention the

⁷⁴ ZUZEK, "Che cosa é una Chiesa, ...," art. cit., p. 267. The modification was that the words *canones decernunt* came in the place of *hic Codex decernit* and the words *uti sui iuris* came in the place of *uti autonomos*.

⁷⁵ The Oriental rites that the canons treat are the Alexandrian, the Antiochean, Constantinopolitan, Chaldean and the Armenian, and other rites that the Church either expressly or tacitly recognizes as *sui iuris*.

⁷⁶ "Additur *de quibus canones decernunt*, ut apparet, sine dubio agi de canonibus, seu de iure canonico, non de divisione rituum liturgicorum ut talium." A. HERMAN, "De Motu Proprio 'Postquam Apostolicis'," in *ME*, 77 (1952) 259.

⁷⁷ BASSET, *The Determination of Rite*, op. cit., p. 89.

⁷⁸ M. M. WOJNAR, "The Code of Oriental Canon Law, De ritibus orientalibus and de personis", in *Jurist* 19 (1959) 279.

⁷⁹ JOUBEIR, *La Notion Canonique de Rite*, op. cit., p. 30.

⁸⁰ BASSET, *The Determination of Rite*, op. cit., p. 89.

obligation for the clergy and the faithful of the entire Church, regardless of rite, the Latin rite not excluded.⁸¹

7.2. The Elements of Canonical Rite

Canonists are generally agreed that a rite is constituted by two elements, which are the material and formal elements.

7.2.1. The Material Element

The material element of a canonical rite comprehends a group of faithful with their own hierarchy, with their own discipline, both canonical and liturgical, and with their own homogenous spiritual heritage.⁸² The group of faithful is the personal subdivision of this element. As Vatican II taught, this group should be held together by a hierarchy.⁸³ The personal element, the *coetus fidelium*, shows that a canonical rite is not bound within territorial limits.⁸⁴ The Oriental Code considers in detail the situation of the faithful outside of their territory but still belonging to their rite.⁸⁵

The spiritual heritage or patrimony of a group of faithful also comes under the material element of rite which includes a distinct theological system and expressions, the special kind of spiritual and monastic life, the religious art, the methods of instruction, etc.⁸⁶

7.2.2. The Formal Element

The formal constitutive element of canonical rite is the acknowledgment or recognition by the Church, either express or tacit, that a certain canonical rite is *sui iuris*, or autonomous and distinguished from others.⁸⁷ The express acknowledgement by the Church would be the

⁸¹ *Cleri Sanctitati* cans. 6, 7-15; especially can.15 says “Praescriptis cans. 1 §2, 4,5,7,10,11 §2, 13 tenentur clerici et fideles cuiusvis ritus, latinis haud exclusis.”

⁸² WOJNAR, “Rites, Canonical”, in *New Catholic Encyclopedia*, vol.12 (1967) 514-518.

⁸³ CD n.11; LG nn.25,26,28; po nn.4,5; SC n.41.

⁸⁴ CIC 1917 can. 216; CD n.22; ES I,4; DPME 172.

⁸⁵ CS cans. 22 §3; 216 §2.2; CA can. 86 §3.3.

⁸⁶ WOJNAR, “Rites, Canonical”, art. cit., p. 516.

⁸⁷ Motu Proprio *Postquam Apostolicis Litteris*, can.303 §1.1: ...”aliique ritus quos uti sui iuris expresse vel tacite agnoscit Ecclesia”; HERMAN, “De, conceptu ritus”, art. cit., p.

formal establishment or recognition by the supreme authority of the Church of a new canonical rite. Since there is no example of such a formal acknowledgement, it is necessary to examine tacit acknowledgement, which is given by equivalent facts, for example, that a certain rite is mentioned in a document of the Holy See such as 'Ruthenian Rite', 'Rumenian Rite', or a proper hierarchy is instituted in a place where another hierarchy already exists, or laws are declared applicable for the faithful of a certain distinct rite, or, that transfer from one group to another requires permission from the Holy See.⁸⁸

8. Vatican Council II and the Concept of Rite

The Second Vatican Council tells us that the Universal Church is a *corpus Ecclesiarum*⁸⁹ which, though diversified, are *in ecclesiastica communione*.⁹⁰ The diversity can include also ritual variety, giving rise thereby to an ecclesiastical communion at two different levels in *particular Churches* before embracing the vaster communion at the level of the Universal Church.⁹¹ This has been made explicit in *Orientalium Ecclesiarum*:

Sancta et catholica Ecclesia, quae est corpus Christi Mysticum, constat ex fidelibus, qui eadem fide, iisdem sacramentis et eodem regimine in Spiritu

340; WOJNAR, "Rites, Canonical", art. cit., p. 516; "The Code of Oriental Canon Law", art. cit., p. 278. BASSET, *The Determination of Rite*, op. cit., p. 91. The autonomy of a canonical rite means that one rite is independent of another. Since all rites are equal juridically, no one can belong to two or more rites at the same time. Cfr. WOJNAR, "Rites, Canonical", art. cit., p. 516.

⁸⁸ HERMAN, "De Conceptu Ritus", art. cit., p. 340; HERMAN, "De ritu in iure canonico", art. cit., pp. 112-113; WOJNAR, "Rites, Canonical", art. cit., p. 516; WOJNAR, "De ritu in Codice Iuris Canonici Orientalis", art. cit., pp. 534-535. "Expressa declaratio verbis ut supra data, numquam facta est. Aequivalenter vero de existentia ritus ab aliis distincti constare potest vel eo quod in documentis S.Sedis nomine peculiari designatur, v.g. ritus ruthenus, ritus rumnaenus etc., vel quod propria hierarchia instituitur in territorio in quo iam alia hierarchia extitit, vel quod leges pro solis fidelibus certi ritus latas esse declaratur, vel quod transitus ab uno coetu ad alium sine venia S.Sedis non permittitur, i.e., quod norma can. 98 CIC applicatur.

⁸⁹ LG n.23.

⁹⁰ LG n.13.

⁹¹ NEDUNGATT, "Ecclesia Universalis, Particularis, Singularis", in *Nuntia* 2 (1976) 80.

Sancto organice uniuntur, quique in varios coetus hierarchia iunctos coalescentes, particulares Ecclesias seu Ritus constituunt.⁹²

In the schema *De Ecclesis Orientalibus*, which was prepared in 1963, the Eastern Catholic Churches were no longer described by the word *Ritus*, as given in the 1917 Code of Canon Law and in the motu proprio *Cleri Sanctitati* of 1957, but by the expression *Ecclesiae particulares*.⁹³ Those who expressed the wish to retain the word *Ritus* in the sense of *Ecclesia orientalis* received a negative response that emphasized first of all “deberet dari clara definitio termini ritus.”⁹⁴ However, the schema itself was not in line with this view.⁹⁵ Very few voices were in opposition but in the first vote for articles 2 and 4, the most important of the schema, the necessary two-thirds vote was not received,⁹⁶ mainly because of the terminological discrepancy between this schema and the schemata of the Dogmatic Constitution *Lumen Gentium* and the Decree *Christus Dominus*. In these two documents the expression *Ecclesia Particularis* simply indicates a *diocese*,⁹⁷ while in the documents *Orientalium Ecclesiarum* this term indicates the “*coetus Ecclesiarum particularium*,” or even “*Ecclesiae locales*.”⁹⁸

Of those who gave a favourable vote,⁹⁹ about fifty wanted the word *Ritus* to be introduced into the schema as an equivalent of *Ecclesia Particularis*, or the use of other terms, such as *Coetus Ecclesiarum Particularium*. The subcommission examined these proposals and accepted the use of both terms *De Ecclesiis particularibus seu Ritibus*.¹⁰⁰

⁹² OE n.2.

⁹³ Cfr. I.ZUZEK, “The Ecclesiae Sui Iuris In the Revision of Canon Law”, in *Vatican II: Assessment and Perspectives Twenty-Five Years after*, New York, 1989, p. 288.

⁹⁴ Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II, vol.III, pars IV, Typis Polyglottis Vaticanis, 1974, p. 498.

⁹⁵ Acta Synodalia, vol.III, pars IV, p. 745.

⁹⁶ Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II, vol.III, pars V, *Congregationes Generales CXII-CXVIII*, Typis Polyglottis Vaticanis, pp.269 and 279.

⁹⁷ LG nn.23, 27, 45; CD n.11.

⁹⁸ LG n.23.

⁹⁹ 719 out of the 2170. Cfr. Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II, *Congregationes Generales CXXIII-CXXVII*, vol.III, pars VIII, Typis Polyglottis Vaticanis, 1976, pp. 561, 564, 563, 565.

¹⁰⁰ Acta Synodalia, vol.III, pars VIII, pp. 563-564.

Finally, the definition was accepted by the entire commission with the following clarification:

Ob difficultates in usu dictionis Ecclesiae particulares, opportunum visum fuit dictionem hanc aequiparare aliis, nempe Ritibus, quae hucusque in usu est, tum canonico cum quotidiano, tum etiam in ipso schemate, proposito; hoc modo maior claritas obtinetur tuam quoad alia schemata, tum quoad usum quotidianum; ubi dictio ritus sensu liturgico adhibetur, id clare notatur.¹⁰¹

There is no doubt that the only reason for the reversal of the previous decision was the need for greater consistency with the schemata of *Lumen Gentium* and *Christus Dominus*, but in fact it results from the lack of clarity in the conciliar texts. Accordingly, the confusion in the use of the term *rite* continues even in *Orientalium Ecclesiarum*, so much so that it is necessary to define the precise meaning, article by article, on the basis of the context.¹⁰²

8.1. Different Meaning of the Term *Ritus* in the Decree of *Orientalium Ecclesiarum*

8.1.1. Rite as Church

Many times the term rite is used in *Orientalium Ecclesiarum* in the sense of a particular Eastern Church: any of the 21 Eastern Churches can be called a rite. In this sense the decree has used the expression 'particular Churches' or 'rites' in n.2¹⁰³ and individual Churches or rites in n.10.¹⁰⁴ Though the Council accepted the term 'particular Churches' or 'rites' as the official expression, it also uses terms like 'Eastern Churches',¹⁰⁵ 'Churches of East',¹⁰⁶ 'Eastern Rite',¹⁰⁷ or simply 'rite'.¹⁰⁸ All these expressions seem to be equivalents.

¹⁰¹ Acta Synodalia, vol.III, pars VIII, p. 558.

¹⁰² Cfr. ZUZKEK, "The Ecclesia sui iuris in the Revision of Canon Law," art. cit., pp. 289-290.

¹⁰³ Cfr. Footnote 92.

¹⁰⁴ "Quae de Patriarchis sunt dicta, valent etiam, ad normam iuris, de Archiepiscopis maioribus, qui universae cuidam Ecclesiae particulari seu ritui praesunt."

¹⁰⁵ OE nn. 5,6,8,9,11,17,19,22,24,29,30.

¹⁰⁶ OE nn.5,6.

¹⁰⁷ OE nn.6, 14.

¹⁰⁸ OE nn 7,16,21.

8.1.2. Rite as the Patrimony of the Church

According to article 3 of *Orientalium Ecclesiarum*, the word *Ritus* should be used for the whole *patrimonium liturgicum, disciplinare, spirituale et theologicum*. For *Unitatis Redintegratio*, it is a heritage handed down by the apostles.¹⁰⁹ Therefore, the Decree emphasising the importance of the preservation of the patrimony of the Eastern Churches says:

Ditissimum Orientalium patrimonium liturgicum et spirituale cognoscere, venerari, conservare et fovere omnes sciant maximi esse momenti ad plenitudinem traditionis christianae fideliter custodiendam et ad reconciliationem orientalium et occidentalium Christianorum perficiendam.¹¹⁰

The conciliar concept of patrimony implies a complex of goods, doctrines, culture, history, discipline, community and traditions, which inseparably exercises an influence on some person or institution.¹¹¹ The Church embraces and makes its own the cultural, philosophical, religious, social and legal patrimony of the nation in which it is incarnated, in so far as it agrees with the Christian Faith.

Therefore, the same Council solemnly declared that the Churches of the East like those of the West have the right and duty to govern themselves according to their own special disciplines.¹¹² This right to govern themselves is possessed by the Eastern Churches as something inherent in their ecclesial nature and not by concession from the Popes. While this was affirmed by the Pope in respect to the Eastern non-Catholic Churches, it must apply at least equally to the Eastern Catholic Churches. John Paul II stated in the Decree on Ecumenism *Euntes in mundum*:

The Decree with utmost clarity underlines that the autonomy which the Eastern Churches enjoy in respect to discipline does not flow from some

¹⁰⁹ UR nn.14, 15.

¹¹⁰ UR n.15.

¹¹¹ X.OCHOA, "Modus determinandi patrimonium constitutionale cuiusvis instituti perfectionis proprium", in *Commentarium pro Religiosis* 48 (1967) 342.

¹¹² OE n.5.

privileges granted by the Roman Church but from the law itself with which these Churches were endowed since apostolic times.¹¹³

8.1.3. Rite as Liturgy

In the first article of *Orientalium Ecclesiarum*, *rite* means the complex of liturgical laws, which is specified as *ritus liturgicos*.¹¹⁴ Therefore, the Council urges all members of the Eastern Churches to preserve their own legitimate liturgical rites and way of life.¹¹⁵ The liturgical patrimony includes the sacraments, the sacramentals, the divine office, liturgical year, church architecture and liturgical art, liturgical music, liturgical language, liturgical vestments, etc.

Thus, while the term *rite* is used in various ways in the decree *Orientalium Ecclesiarum*, that is, in the sense of Church, patrimony and liturgy, however it is very difficult to distinguish the various connotations of the word *rite* in many places of the decree.

9. Concept of Rite in the New Latin Code and the Oriental Code

The concepts of *Ritus* and *Ecclesia particularis* as used in the Conciliar Decree *Orientalium Ecclesiarum* received great attention from both the Pontifical Commission for the Revision of the Code of Eastern Canon Law and the Commission for the Revision of the Code of Canon Law of the Latin Church. A first proposal regarding the word *Ritus* was put forward by the faculty of Canon Law of the Pontifical Oriental Institute at the beginning of 1973, proposing that the concept of *rite* should be re-examined and should be reserved solely to rites in the liturgical sense, as is more natural and more commonly used.¹¹⁶ After proper examination and study by the Commission for the Revision of the Code of Oriental Canon Law, this proposal was formally submitted for

¹¹³ AAS 80 (1988) 950; Cfr. VICTOR J. POSPISHIL, *Eastern Catholic Marriage Law*, op. cit., p. 48.

¹¹⁴ *Orientalium Ecclesiarum instituta, ritus liturgicos, ... Ecclesia catholica magni facit*. Cfr. OE n.1.

¹¹⁵ *Sciant ac pro certo habeant omnes Orientales, se suos legitimos ritus liturgicos suamque disciplinam semper servare posse et...* Cfr. OE n.6.

¹¹⁶ ZUZEK, "The *Ecclesia sui iuris* in the Revision of Canon Law," art. cit., p. 290.

the approval of the members who met in March 1974 to draw up guidelines for the revision of the Oriental Code. The Commission decided that “the concept of rite should be re-examined and a new term agreed upon to designate the various particular Churches of East and West”.¹¹⁷

9.1. Ritus and Ecclesia Particularis

The Commission for the Revision of the Code of Eastern Canon Law entrusted the canons *De Ritibus* to the study group *De normis generalibus*. At its third session in January 1976, after long study and discussion, the Commission decided to separate the concept *Ritus* from that of *Ecclesia Particularis*, in the sense used in *Orientalium Ecclesiarum*,¹¹⁸ and that the terms should no longer be used as synonyms-*Ecclesiae particulares seu Ritus*. The word *Ritus* was reserved for the whole *patrimonium liturgicum, disciplinare, spirituale et theologicum*¹¹⁹ of an *Ecclesia Particularis*, whereas the latter expression would mean a “coetus fidelium hierarchica ad normam Iuris iunctus, quem uti sui iuris agnoscit Romanus Pontifex vel Oecumenica Synodus”.¹²⁰ As a result, these two concepts are defined in canon 1 of the Oriental Schema as follows:

Canon 1 §1. Nomine ritus, hoc in Codice, nisi aliud constet, intelligitur patrimonium liturgicum, disciplinare, spirituale et theologicum, fundatum in traditionibus Alexandrina, Antiochena, Constantinopolitana, Chaldaea et Armena, et legitime evolutum conditionibus populorum, quod modo fidei vivendae uniuscuiusque Ecclesiae particularis proprio exprimitur.

§2 Nomine Ecclesiae particularis, hoc in Codice, intelligitur coetus fidelium hierarchiae ad normam iuris iunctus, quem uti sui iuris expresse vel tacite agnoscit Romanus Pontifex vel Oecumenica Synodus.¹²¹

¹¹⁷ *Nuntia*, “Guidelines for the Revision of the Code of Oriental Canon Law,” 3(1976) 22; ZUZEK, “The Ecclesia sui iuris in the Revision of Canon Law”, art. cit., p. 291.

¹¹⁸ OE n.2.

¹¹⁹ OE n.3.

¹²⁰ *Nuntia*, “Les Canons des Rites Orientaux”, 3 (1976) 45; ZUZEK, “The Ecclesia sui iuris in the Revision of Canon Law”, art. cit., p. 292.

¹²¹ *Nuntia* 3 (1976) 45. Can. 1 §1. By the term rite in this Code, unless otherwise stated, is understood the liturgical, disciplinary, spiritual and theological patrimony, founded in the Alexandrian, Antiochene, Constantinopolitan, Chaldean, and Armenian traditions, and

9.2. Ecclesiae Rituales Sui Iuris

A special difficulty always faced by the *Coetus mixtus de lege Ecclesiae fundamentalis* was the expression *Ecclesia particularis*.¹²² In *Lumen Gentium* and *Christus Dominus*, *Ecclesia Particularis* is used mainly to refer to dioceses.¹²³ Being faithful to these documents, the Latin Code also uses *Ecclesia particularis* for diocese.¹²⁴ But, as we have seen, in the schema *De ritibus* of the Oriental Code *Ecclesia particularis* is used for a Church being faithful to *Orientalium Ecclesiarum*,¹²⁵ and *ecclesia singularis* is used for diocese.¹²⁶ Many consultors had a great desire to eliminate this difficulty and to have a uniform terminology in both Codes as far as possible. The problem was discussed in the *Coetus mixtus* in 1974 and 1976 and it was finally decided to use the expression *Ecclesiae rituales sui iuris* for a Church and *Ecclesia particularis* for an eparchy (diocese).¹²⁷ This expression corresponds well to both the *motu proprio Postquam apostolicis litteris*, canon 303,¹²⁸ and the above mentioned draft of the first canon *De ritibus*, in which these Churches are

legitimately evolved in the conditions of the people and by which each particular Church expresses its proper mode of living the faith.

§2. By the term particular church is understood in this Code the group of faithful, bound together by a hierarchy according to the norm of Law, and which is acknowledged by the Roman Pontiff or Ecumenical Synod as autonomous. Cfr. ZUZÉK, "The Ecclesiae sui iuris in the Revision of Canon Law", art. cit., p. 293.

¹²² For a detailed study of the terminological question, cfr. J.D. FARIS, *The Communion of Catholic Churches--Terminology and Ecclesiology*, New York, 1985, pp. 85-160.

¹²³ LG nn. 23,27,45; CD n.11.

¹²⁴ CIC. cans. 368, 372, 373, 374. In the Oriental Code 'Ecclesia particularis' is used only once in the sense of OE nn.2,3,4. Cfr. *Nuntia* 23 (1986) 4-5.

¹²⁵ OE n.2.

¹²⁶ *Nuntia* 9 (1979) 5, can. 1; *Nuntia* 19 (1984(52) can. 145. In both of these *Nuntia* references, the canon has the same wording as follows: "Eparchia est populi Dei portio, quae Episcopo cum cooperatione presbyterii pascenda conceditur, ita ut, pastori suo adhaerens ab eoque per Evangelium in Spiritu Sancto congregata, Ecclesiam singularem constituat, in qua vere inest et operatur Una Sancta Catholica et Apostolica Ecclesia."

¹²⁷ *Communicationes* 2 (1977) 298; *Nuntia* 23 (1986) 4, can.145; *Nuntia* 24-25 (1987) 32, can.175; CCEO, can.177; ZUZÉK, "The Ecclesia Sui Iuris in the Revision of Canon Law", art. cit., pp. 294-296.

¹²⁸ Can. 303 §1.1. "Ritus orientales de quibus canones decernunt sunt alexandrinus, antiochenus, constantinopolitanus, chaldaeus et armenus, alique ritus quos uti sui iuris expresse vel tacite agnoscit Ecclesia."

called *coetus fidelium...sui iuris*.¹²⁹ In this sense, without implying any supremacy, the Latin Church itself is one of the *Ecclesiae rituales sui iuris*.¹³⁰

9.3. Change of *Ecclesiae Rituales Sui Iuris* to *Ecclesiae Sui Iuris*

The expression *Ecclesiae rituales sui iuris* was adopted by the Commission for the Revision of the Code of Canon Law of the Latin Church and it appears in the promulgated text of CIC 1983.¹³¹ It was also adopted by the Commission for the Revision of the Oriental Code; however the term *ritualis* is not used in the Oriental Code because it is considered superfluous and counterproductive when speaking of *Ecclesiae sui iuris*, especially since there are different *Ecclesiae sui iuris* belonging fundamentally to the same *Ritus*. With the exception of the Armenian rite, the various rites or traditions are concretised in various *sui iuris* Churches, which are distinguished from one another not so much because of their position as *rituales* but precisely because they are *sui iuris*, that is, hierarchically organized under one of the forms approved by the supreme authority of the Church. They are:

- i. Churches with a status of *Ecclesiae patriarchales*.
- ii. Churches with a status of *Ecclesiae archiepiscopales maiores*.
- iii. Churches with a status of *Ecclesiae metropolitanae sui iuris*.

iv. *Ceterae Ecclesiae sui iuris*, some of which are *de facto* made up only of one diocese or even of a single *exarchia*, although at least potentially they are capable of developing into one of the other three forms.¹³²

¹²⁹ *Nuntia*, 3 (1976) 45, can.1.

¹³⁰ RODGER J. AUSTIN, "The Particular Church and the Universal Church in the 1983 Code of Canon Law", in *Studia Canonica*, 22 (1988) 351.

¹³¹ CIC 1983, cans. 111, 112.

¹³² ZUZEK, "The *Ecclesiae Sui iuris* in the Revision of Canon Law", art. cit., pp. 296-297; CCEO, Titulus IV, V, VI.

9.4. Later Modifications of Canon 1 of De Ritibus

Basing its definition on the new understanding of the terms, the *Coetus Centralis Consultores* assembled in April 1980 and made the necessary modifications. The title *De Ritibus* was changed in to *De Ecclesiis Sui Iuris et De Ritibus*. The first part of the canon itself was divided into two: the first part is the definition of rite and the second part enumerates the five traditions from which are derived the other rites. Another modification is that *Ecclesia Particularis* was changed to *Ecclesia sui iuris*, according to the decision of the *Coetus Mixtus*. The expression in *conditionibus populorum* was clarified as *cultura ac rerum adiunctis historiae populorum distinctum*.¹³³ With these modifications canon 1 of *De Ritibus* was published as canon 9 of Titulus 1, *De Ecclesiae Sui Iuris et De Ritibus*, in a new draft as follows:

Canon 9 §1.1. Nomine ritus intelligitur patrimonium liturgicum, theologicum, spirituale, et disciplinare, cultura ac rerum adiunctis historiae populorum distinctum, quod modo fidei vivendae uniuscuiusque Ecclesiae sui iuris proprio exprimitur.

2. Ritus de quibus hoc in Codice agitur sunt, nisi aliud constet, illi oriundi ex traditionibus alexandrina, antiochena, armena, chaldaea, vel constantinopolitana.

§2. Coetus fidelium hierarchia ad normam iuris iunctus quem uti sui iuris expresse vel tacite agnoscit Suprema Ecclesiae universalis Auctoritas vocatur in hoc Codice Ecclesia sui iuris.¹³⁴

The special Commission convened in January 1984 made no substantial changes, the only change being the inversion of the order of the two paragraphs.¹³⁵ This canon was published as canon 27 of the *Schema*

¹³³ *Nuntia* 19 (1984) 5-6.

¹³⁴ *Nuntia* 19 (1984) 21.

¹³⁵ Can.9 §1. Coetus fidelium hierarchica ad normam iuris iunctus quem uti sui iuris expresse vel tacite agnoscit Suprema Ecclesiae universalis Auctoritas vocatur in hoc Codice *Ecclesia sui iuris*.

§2.1°. Nomine ritus intelligitur patrimonium liturgicum, theologicum, spirituale et disciplinare, cultura et rerum adiunctis historiae populorum distinctum, quod modo fidei vivendae uniuscuiusque Ecclesiae sui iuris proprio exprimitur.

2°. Ritus de quibus hoc in Codice agitur sunt, nisi aliud constet, illi oriundi ex traditionibus alexandrina, antiochena, armena, chaldaea, vel constantinopolitana. cfr. *Nuntia* 22 (1986) 22-23.

Codicis Iuris Canonici Orientalis, under Titulus II, *De Ecclesis sui iuris et de ritibus*, without any change.¹³⁶ Later the *Coetus De Expensione observationum* meeting in November 1987 and January 1988, divided canon 27 of the Schema into two separate canons, which appear as canons 27 and 28 in the *Codex Canonum Ecclesiarum Orientalium*¹³⁷ as promulgated.

9.5. Ecclesia Sui Iuris and Ritus in CCEO

An Ecclesia sui iuris is defined (can.27) as a group of Christian faithful bound together according to the norm of law by a hierarchy, and which is expressly or tacitly acknowledged as *sui iuris* by the supreme authority of the Church.¹³⁸

A rite is the liturgical, theological, spiritual and disciplinary patrimony, culture and historical circumstances of distinct peoples, and by which each *sui iuris* Church expresses its own manner of living the faith. According to the canon all the rites are derived from the Alexandrian, Antiochean, Armenian, Chaldean and Constantinopolitan traditions.¹³⁹

So the New Code for the Orientals, *Codex Canonum Ecclesiarum Orientalium*, makes a clear distinction between *Church and rite*. The terms 'Church' and 'rite' are not synonymous nor are they interchangeable as in the past. 'Church' refers to a communion of persons, while 'rite' to something that belongs to a Church. 'Church' is a moral person and 'rite' is something that belongs to it, constituting its property or patrimony and consisting of four constitutive elements, namely liturgy, theology, spirituality and canonical discipline.¹⁴⁰ When we analyse the

¹³⁶ *Nuntia* 24-25 (1987) 5.

¹³⁷ *Nuntia* 28 (1989) 18-20.

¹³⁸ CCEO can.27. "Coetus christifidelium hierarchiae ad normam iuris iunctus quem ut sui iuris expresse vel tacite agnoscit suprema Ecclesiae auctoritas, vocatur in hoc Codice Ecclesia sui iuris."

¹³⁹ CCEO can.28§1. Ritus est patrimonium liturgicum, theologicum, spirituale et disciplinare cultura ac rerum adiunctis historiae populorum distinctum, quod modo fidei vivendae uniuscuiusque ecclesiae sui iuris proprio exprimitur.

§2. Ritus, de quibus in Codice agitur, sunt, nisi aliud constat, illi, qui oriuntur ex traditionibus Alexandrina, Antiochena, Armena, Chaldaea et Constantinopolitana.

¹⁴⁰ G.NEDUNGATT, "Equal Rights of the Churches in the Catholic Communion", in *The Jurist* 49 (1989) 3, footnote, n.3.

distinction between Church and rite, we must not emphasize Church as hierarchy. As moral persons all the *Ecclesiae sui iuris* are equal and the constitutive elements are same for all the Churches, such as:

- i. Groups of Christian faithful
- ii. Bound together by a hierarchy according to the norm of law.
- iii. Express or tacit recognition by the supreme authority of the Church as *ecclesia sui iuris*.

10. Various Oriental Catholic Churches in the New Oriental Code

As does the *Codex Iuris Canonici*, the *Codex Canonum Ecclesiarum Orientalium* canon 1 states that the canons of this Code concern all and only the Oriental Catholic Churches, unless, as regards the relations with the Latin Church, an exception is expressly stated.¹⁴¹ With this affirmation the new legislation affects only the *Oriental Catholic Churches*. However, the exact number of these Oriental Catholic Churches is not known, even by high officials like Ivan Zuzek, S.J., the Secretary of the Commission for the Revision of the Eastern Code.¹⁴² The principal reason for this is that some of these Churches have been dispersed, suppressed, or swept under the carpet by accidents of history, like the Communist persecution.¹⁴³ According to the official Vatican Directory there are 27 Churches in communion with Catholic Church,¹⁴⁴ but few of these survive today.

Today there are 21 Oriental Catholic Churches existing within the five primary Eastern Rites. They are listed below according to the primary rites or traditions from which they are generated:

¹⁴¹ CCEO can.1. Canones huius Codicis omnes et solas Ecclesias orientales catholicas respiciunt, nisi, relationes cum Ecclesia latina quod attinet, aliud expresse statuitur.

¹⁴² I. ZUZEK, "Presentazione del Codex Canonum Ecclesiarum Orientalium", in *ME* 115 (1990) 602.

¹⁴³ J. MADEY, "The Resurrection of the Oriental Catholic Churches in Eastern Europe", in *Christian Orient* 11 (1990) 156-173; NEDUNGATT, "A New Code for the Oriental Churches", in *Vidyajyothi* 55 (1991) 327.

¹⁴⁴ Sacra Congregazione per le Chiese Orientali, *Oriente Cattolico*, 4 ed., Citta del Vaticano, 1974, pp. 840-843.

Traditions	Churches	Status
I. Alexandrian	1. Coptic	Patriarchate
	2. Ethiopian	Metropolitan
II. Antiochean	3. Syrian	Patriarchate
	4. Maronite	Patriarchate
	5. Syro-Malankara	Metropolitan
III. Armenian	6. Armenian	Patriarchate
IV. Chaldean	7. Chaldean	Patriarchate
	8. Syro-Malabar	Major Archbishop
V. Constantinopolitan	9. Albanian	
	10. Bielorussian	
	11. Bulgarian	
	12. Greek	
	13. Hungarian	
	14. Italo-Albanian	
	15. Melkite	Patriarchate
	16. Romanian	
	17. Ruthenian	Metropolitan
	18. Russian	
	19. Slovak	
	20. Ukrainian	Major Archbishop
	21. Yugoslavian ¹⁴⁵	

Six of these Churches have attained full hierarchical development by becoming Patriarchal Churches and two, by becoming a Major Archbishopal Church. Many others are metropolitan churches, eparchies or dioceses, or even exarchates, others being small or unknown entities with statistics in need of updating. All these Churches are bound by *Codex Canonum Ecclesiarum Orientalium*, as also by the Vatican Decree *Orientalium Ecclesiarum*.¹⁴⁶

¹⁴⁵ EMILE EID, "La presentazione del Codice dei Canoni delle Chiese Orientali", in *L'Osservatore Romano*, 27 Ottobre, 1990, p. 7; EMILE EID, "Code promises 'Oriental springtime', *L'Osservatore Romano*, (English Edition) 5 November, 1990, p. 5; I.ZUZEK, "Presentazione del Codex Canonum Ecclesiarum Orientalium", in *ME* 115 (1990) 602-603.

¹⁴⁶ Cfr. G.NEDUNGATT, "A New Code for the Oriental Churches", in *Vidyajyothi* 55 (1991) 329.

11. Acquisition of Membership in an *Ecclesia Sui iuris*

Having seen the concept of rite and various *Ecclesiae sui iuris* in the Universal Church, we will now examine the acquisition of membership in the *Ecclesiae sui iuris* according to the CIC and CCEO. As a principle, through the reception of baptism one becomes the member of an *Ecclesia sui iuris*.¹⁴⁷ However, there are limits to the freedom of choice of one's Church of membership in view of CIC and CCEO. The various cases:

a) Non-baptized under 14

<u>Case</u>	<u>1983 CIC</u>	<u>1990 CCEO</u>
Parents in the same Catholic ecclesia sui iuris	c.111 §1: Church of the parents	c.29 §1: Church of the father
Catholic Latin father Catholic Eastern mother	c.111 §1: Latin, if the parents agree on Latin; Church of the father if they do not	c.29 §1: Church of the father or, if both agree, Church of the mother
Catholic Eastern father and Latin mother	c.111 §1: Latin, if the parents agree on Latin; Church of the father if they don't	c.29 §1: Church of father or, if both agree, Church of the mother
Latin father and Eastern non-Catholic mother	c.1125 1°: on promises	c.29 §1: Church of the father
Eastern non-Catholic father and Latin mother	c.1125 1°: on promises	c.29 §1: Church of the mother
Eastern Catholic unmarried mother	-	c.29 §2 1°: Church of the mother

¹⁴⁷ CCEO can. 29 §1; CIC can. 111 §1.

Parents unknown	-	c.29 §2 2°: Church of the guardian (if the child is adopted)
Parents not baptized	-	c.29 § 3: Church of the educator in faith
b) Non-baptized persons over 14	c.111 §2 : free choice	c.30: free choice ¹⁴⁸

12. Equality and Communion of Ecclesiae Sui Iuris

As we have already seen, in the Universal Church there are different *Ecclesiae sui iuris*, which are equally entrusted to the pastoral guidance of the Roman Pontiff. As Supreme Pastor of the Universal Church, the Roman Pontiff is the defender and guarantor of unity and of the *bonum commune* of the Church, its *summus iudex* and *arbiter*, who intervenes only where, and to the extent that the unity and purity of the faith make it appear to be necessary.¹⁴⁹ Here the Bishop of Rome will be the visible center of communion.¹⁵⁰ This primacy of the Pope urges every *Ecclesiae sui iuris* to strengthen and foster equality and communion among the others.

12.1. Equality among the Ecclesiae Sui Iuris

In the guiding principles approved by the First Plenary Assembly of the Commission for the Revision of Oriental Canon Law, 18-23 March 1974, under the heading of *Rites and Particular Churches* we read: “As regards the structure of the various Particular Churches, the juridical effects of the principle of the equality of all the Churches of the East and of the West, which was asserted by the Second Vatican Council (OE.3), should obtain recognition in the new Code.” This conciliar statement clearly emphasizes the fundamental equality of all the *Ecclesiae sui*

¹⁴⁸ THÉRIAULT, “Canonical Questions brought about the Presence of Eastern Catholics in Latin Areas in the Light of the “Codex Canonum Ecclesiarum Orientalium” in *Ius Ecclesiale* 3 (1991) 201-232.

¹⁴⁹ JOHANNES M. HOECK, “Decree on Eastern Catholic Churches”, in *Commentary on the Documents of Vatican II*, ed., H. Vorgrimler, vol.I (English Edition), New York, 1967, p. 315.

¹⁵⁰ J.M.R.TILLARD, “The Church of God is a Communion: The Ecclesiological Perspective of Vatican II”, in *One in Christ* 17 (1981) 126-127.

iuris, both those of the West as well as the East, in dignity, rights and obligations.¹⁵¹ However, this conciliar declaration has not been formed into a single canon of the *Codex Canonum Orientalium Ecclesiarum*.

The emphasis of this equality is well-known to everyone and many commentators stressed the reason that this article was inserted in OE, n.3 to reflect the situation in India, where the Malabar Church which has a large surplus of vocations was always obliged to adopt the Roman rite to undertake missionary apostolate outside Malabar.¹⁵² In the same manner article 4 of the Constitution of the Sacred Liturgy, *Sacrosanctum Concilium* states:

Traditioni denique fideliter obsequens, Sacrosanctum Concilium declarat Sanctam Matrem Ecclesiam omnes Ritus legitime agnitos aequo iure atque honore habere, eosque in posterum servari et omnimode foveri velle, atque optat ut, ubi opus sit, caute ex integro ad mentem sanae traditionis recognoscantur et novo vigore, pro hodiernis adiunctis et necessitatibus, donentur.¹⁵³

Through this article the Council declared that not only all existing rites but all rites which fulfil the conditions of legitimacy will have equal validity before the Church. Therefore, the equality among the *Ecclesiae sui iuris* stressed by Vatican II has, in fact, two aspects, namely that of perfect equality among themselves and that of complementarity to the others because the whole Mystery of Christ is realized in every *Ecclesiae sui iuris*.¹⁵⁴ The recognition and the acceptance of the equality of the *Ecclesia sui iuris* by the Council is a clear mandate to provide equal opportunities to all the *Ecclesiae sui iuris* in fulfilling their missionary activities and to advance their full flourishing within the Universal Church.

¹⁵¹ J.M.HOECK, "Decree on Eastern Catholic Churches", in *Commentary on the Documents of Vatican II*, ed., H. Vorgrimler, vol. 1, p. 315.

¹⁵² W.M.ABBOT, *The Documents of Vatican II*, London, 1966, p. 374; NEDUNGATT, "Equal Rights of the Churches in the Catholic Communion", art. cit., p. 2.

¹⁵³ SC n.4.

¹⁵⁴ PAUL PUTHANANGADY, "Individual Churches in India, Relationship and Cooperation", in *Vidyajyothi*, 1981, p. 174.

12.2. Communion of Ecclesiae Sui Iuris

The concept of 'Communion' was held in very high esteem in the ancient Church and also in the present day Church, especially in the East. The Second Vatican Council adopted this ancient terminology and reaffirmed that the Church herself is a communion of different Churches. The Church is the sacrament of the communion of mankind with God who is one and three, and of men with one another. This means that the Church signifies this communion and brings it about: anybody who enters into communion with God is also in communion with his brethren; and all who are united to God are united to one another. God is the source of communion, with Church as the instrument of this, so that it is the present action of the Spirit in and through the Church that brings about the communion of men with God and with one another.¹⁵⁵ The communion of the faithful, which has its basis in Baptism under the prompting of the Holy Spirit,¹⁵⁶ has a direct relationship with the Eucharist that leads to communion with Christ¹⁵⁷ and with the Trinity.¹⁵⁸ The communion between all the members of the Church¹⁵⁹ and between all *Ecclesiae sui iuris*¹⁶⁰ flows from this communion, in virtue of which the faithful are made partakers in the divine nature.¹⁶¹ Therefore, the essential basis of the communion constitutes the confession of one faith, the communion of life, sacraments and charity between the faithful and between the Churches.¹⁶²

The Communion between the faithful and between Churches, which is vivified by charity and organically structured, and which fully expresses the mystery of the Church, "subsists in the Catholic Church,

¹⁵⁵ Cfr. GIANFRANCO GHIRLANDA, "Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law", in R. Latourella ed., *Vatican II: Assessment and Perspectives Twenty-five Years After (1962-1987)*, New York, 1989, p. 234.

¹⁵⁶ UR n.2.

¹⁵⁷ AG n.39; LG nn.3,7.

¹⁵⁸ UR n.15

¹⁵⁹ LG n.7; UR n.7; AG n.39; GS n.38.

¹⁶⁰ UR nn.14,15.

¹⁶¹ UR n.15.

¹⁶² LG n.9; UR nn.2,14.

which is governed by the successor of Peter and by the bishops in communion with him."¹⁶³ It is, therefore, not enough to define the Church solely as a spiritual communion created by the Holy Spirit between the faithful and between Churches, but more fully as "ecclesiastical communion" and "hierarchical communion."¹⁶⁴

According to the teaching of the Second Vatican Council, Christ is the source and centre of the ecclesiastical communion¹⁶⁵ that exists between the local churches and Rome and also among the local churches themselves,¹⁶⁶ which is expressed in the Eucharistic concelebration,¹⁶⁷ but that does not mean that we overlook other factors, such as the spoken word and the unity of faith. This ecclesiastical communion constitutes fully Catholic communion.¹⁶⁸ Within the Eucharist, Jesus Christ is the one who transforms the community into communion with others, and as a result we are all formed into the Body of Christ, the Church of Christ. In other words, through the works of the Holy Spirit the whole Christ lives in every "*Ecclesia sui iuris*." Again, the concept of communion is closely related to that of the incorporation of the individual baptized person into the Church, and this incorporation takes place in varying degrees according to the degree of union with Christ through the bonds of profession of faith, sacraments, ecclesiastical governance, and communion.¹⁶⁹

Hierarchical communion constitutes ecclesiastical or Catholic communion and, in general, the full relation of the Church as communion, although hierarchical communion is seen in relation to patriarchs, bishops, and presbyters. With regard to the consecration of bishops, the legitimation of the consecration itself points to the spiritual and organic or structural bond between bishops and the head of the college and its

¹⁶³ LG n.8.

¹⁶⁴ Cfr. GHIRLANDA, "Universal, Particular, and Local Churches....," art. cit., p. 236.

¹⁶⁵ UR n.20.

¹⁶⁶ LG n.13c; AG n.22b.

¹⁶⁷ UR nn. 4 15.

¹⁶⁸ OE n.4; UR nn.3,4,13,19.

¹⁶⁹ LG nn.13,14,15; OE nn.4, 30; UR nn.3,4,17,18; GS n.92.

other members.¹⁷⁰ The ancient tradition and the present practice of exchanging letters between the newly-elected patriarch and the Roman Pontiff,¹⁷¹ the synodal letter to the other patriarchs,¹⁷² the prohibition of newly-elected patriarch to convoke a synod of bishops or to ordain bishops before he receives ecclesiastical communion from the Roman Pontiff,¹⁷³ show clear signs of this ecclesiastical communion. Canon 92 of the CCEO speaks about the patriarch's duty and obligation manifested in the commemoration of the Roman Pontiff in the Divine Liturgy, in the *ad limina visit*, etc. It also speaks of the manifestation of hierarchical communion with the Roman Pontiff, the successor of Peter, through fidelity, veneration and obedience, which are due to the pastor of the Universal Church.¹⁷⁴ According to CCEO canon 152, the Major Archbishop is also bound to make all the above mentioned duties and obligations. From ancient times the center of this ecclesiastical communion was the See of Rome and communion with the See of Rome was considered decisive¹⁷⁵ for a member of Christ's Church. This is clear from the words of Pope Boniface I¹⁷⁶ and Pope Damasus.¹⁷⁷ The Dogmatic Constitution

¹⁷⁰ CIC cans. 377 §1, 1013, 1382; CCEO cans. 181 §1 and §2, 745, 1459 §1 and §2.

¹⁷¹ CCEO can. 76 §2. Novus Patriarcha per litteras manu propria subscriptas quam primum expostulare debet a Romano Pontifice ecclesiasticam communionem.

¹⁷² CCEO can. 76 §1. "... synodicae litterae de electione peracta mittantur quoque ad Patriarchas aliarum Ecclesiarum orientalium."

¹⁷³ CCEO can. 77 §2. Patriarcha, antequam communionem ecclesiasticam a Romano Pontifice accepit, ne Synodum Episcoporum Ecclesiae patriarchalis convocet neque Episcopos ordinet.

¹⁷⁴ CCEO can. 92 §1. Patriarcha manifestet communionem hierarchicam cum Romano Pontifice, sancti Petri successore, per fidelitatem, venerationem et oboedientiam, quae debentur supremo universae Ecclesiae Pastori.

§2. Patriarcha commemorationem Romani Pontificis in signum plenae communionis cum eo in Divina Liturgia et in laudibus divinis secundum praescripta librorum liturgicorum debet facere et curare, ..., fideliter fiat.

§3. Patriarchae cum Romano Pontifice frequens sit consuetudo ac secundum normas specialiter statutas ei relationem de statu Ecclesiae, cui praeest, exhibeat necnon intra annum a sua electione, deinde pluries durante munere visitationem ad Urbem peragat sanctorum Apostolorum Petri et Pauli limina veneraturus atque sancti Petri successor in primatu super universam Ecclesiam se sistat.

¹⁷⁵ L. HERTLING, *Communio: Chiesa e Papato nell' Antichità Cristiana*, Rome, 1961, p. 52.

¹⁷⁶ SANCTI BONIFACII I, *Epistolae et Decreta*, n. 24; MIGNE, PL, vol. 20, p. 777.

¹⁷⁷ SANCTI HIERONYMI, *Epistola*, n. 15, Ad Damasum Papam; MIGNE, PL, vol. 22, p. 355.

Lumen Gentium n.24 affirmed the need of ecclesiastical communion for the bishops to exercise their office. The *Ad Limina* visits of the bishops¹⁷⁸ and the Roman Pontiff's visits to nations and peoples also express the communion of Churches. During his visit to India in 1986, Pope John Paul II said to the Indian Bishops, "This is therefore an hour of ecclesial communion in the love of Christ, in the unity of his Church and in the oneness of our pastoral mission".¹⁷⁹

The Universal Church as a communion of Churches organically unites groups of *Ecclesiae sui iuris* with equal ranks. The ecclesiology of communion was emphasized through the various documents of the Second Vatican Council which restored the basic equality of all Churches within the Universal Church. That is why the Council says that all these Churches have to preserve and safeguard their own ecclesiastical and spiritual heritage and encourages these Churches to govern themselves according to their own special disciplines.¹⁸¹ To this affirmation the Second Vatican Council adds that the heritage of the Universal Church is the sum total of the heritage of all the *Ecclesiae sui iuris*.

13. Patriarchal Synod in the Oriental Churches

The Dogmatic Constitution on the Church *Lumen Gentium*, in its description of the Patriarchal Churches, begins with the following words:

Divina autem Providentia factum est ut variae variis in locis ab Apostolis eorumque successoribus institutae Ecclesiae decursu temporum in plures coaluerint coetus, organice coniunctos, qui salva fidei unitate et unica divina constitutione universalis Ecclesiae, gaudent propria disciplina proprio liturgico usu, theologico spiritualique patrimonio.¹⁸²

By the use of this language, the Council Fathers recognize the existence of the different Churches from the earliest times;¹⁸² they assert

¹⁷⁸ "The '*ad limina* visit' is not merely a juridical and administrative institute but one which expresses the communion of the Churches and the collegial aspect of the episcopate". Cfr. The Directory for the *ad limina* visit, issued by the Congregation of Bishops on 29 June 1988 and published in *L'Osservatore Romano* on 2 July 1988, at pages 4-6.

¹⁷⁹ AAS 78 (1986) 745.

¹⁸⁰ OE nn.3, 5, 6.

¹⁸¹ LG n.23d.

¹⁸² OE n.7.

that these Churches are the result of God's providential care for the Universal Church.¹⁸³ As a consequence, the Church responds to its mission and formulates various institutions according to the nature of these Churches, of which some become the part of her essential constitution.

Patriarchal structure is one of the important institutions in the life of the Oriental Churches, constituting the superior authority for all affairs of Patriarchal Churches.¹⁸⁴ The Patriarchal structure in the Oriental Churches serves as an intermediate communion between the Universal Church and the eparchies.¹⁸⁵ The concept of an *Ecclesia sui iuris* in the East normally includes a juridical head above the eparchial level either in the figure of Patriarch, Major Archbishop or Metropolitan. "(In) general all the Eastern Churches are organized on the basis of a patriarchal structure,¹⁸⁶ in which, from early times and up to our own day, Church government is largely autonomous and consists of a patriarch assisted by his synod."¹⁸⁷

According to the canon 216 §1 of the motu proprio *Cleri Sanctitati* and article 9 of the Conciliar Decree *Orientalium Ecclesiarum* "the patriarchs therefore preside over the respective patriarchates as father and head". This expression "*as father and head*" is now found in canon

¹⁸³ G. PHILIPS, *L'Eglise et son Mystère Ile Concile du Vatican*, t.1, Paris-Desclée, 1967, p. 313.

¹⁸⁴ OE n.9.

¹⁸⁵ "In the Oriental discipline the Patriarch possesses an office of great significance and activity, as intermediary between the Roman Pontiff and almost the whole life of the Patriarch's Church." M. WOJNAR, "The Code of Oriental Canon Law De Ritibus Orientalibus and de Personis", in *The Jurist* 19 (1959) 418; "Il Patriarca é quasi un intermediario tra il popolo del suo patriarcato e la Santa Sede, quindi tutte le relazioni tra gli inferiori e l'autorità superiori passano per lui in qualche modo." Cfr. A. WUYTS, "Il diritto delle persone nella nuova legislazione per la Chiesa Orientale", in *OCP* 24 (1958) 182.

¹⁸⁶ W. DE VRIES, "The Origins of the Eastern Patriarchates and their Relationship to the Power of the Pope", Part I & II, in *One in Christ* (1966) 50-69; cfr. also E. EID, *La figure juridique du patriarche*, Rome, 1962; W. DE VRIES, *Rom und die Patriarchate des Ostens*, Freiburg, 1963.

¹⁸⁷ Extrait d'une lettre du 29 Mars 1966, n. 412/17 du Patriarche [Maximos IV Saigh] à la Nonciature Apostolique à Damas; English translation is in *Eastern Churches Review* 1 (1966) 164.

55 of the *Codex Canonum Ecclesiarum Orientalium*.¹⁸⁸ Patriarchs with their synods constitute the supreme authority¹⁸⁹ for all affairs of the patriarchate.¹⁹⁰ According to the true Oriental concept of patriarch, it is viewed with the synodal system: the patriarch is the head of the Synod of Bishops of his Church, collegially coordinating the activity of his bishops, his brothers.¹⁹¹

13.1. The Power of the Synod of Bishops of the Patriarchal Church

The Synod of Bishops of the Patriarchal Church is the most important assembly in the Patriarchal Churches. It has competence to make laws for the entire patriarchal Church, which come into force according to the norms of CCEO canon 150 §2 and 3.¹⁹² The laws emanate from the synod and are promulgated by the patriarch, but must not be contrary to the common law promulgated by the supreme authority of the Church for

¹⁸⁸ CCEO can. 55: "... qui suae quisque Ecclesiae patriarchali tamquam pater et caput praesunt."

¹⁸⁹ For I. Zuzek, the Ordinary Power "according to the norm of law" is established by the Supreme Authority of the Church (cans. 56 & 78) as a sharing of the Supreme Authority. He continues that in the motu proprio *Cleri Sanctitati*, the first part of Title IV, containing all the canons "concerning patriarchs" is entitled "The Supreme Authority and those who participate in this by Canon Law." This does not appear in CCEO; nevertheless, it is confirmed by the Pope in the Apostolic Constitution "*Sacri Canones*" [AAS 82 (1990) 1033-1363]: Patriarchs and synods participate in the supreme authority of the Church by Canon Law ("patriarchae et synodi iure canonico supremae Ecclesiae auctoritatis participes sunt." AAS 82 (1990) 1037). Cfr. I. ZUZEK, "The Patriarchal structure according to the Oriental Code", in *The Code of Canons of the Oriental Churches*, ed., C. Gallagher, Rome, 1991, p. 42; Wojnar translates *superiorem instantiam* as the second instance, with the Holy See being the highest instance and the first instance that of bishop. Cfr. M. WOJNAR, "Decree on the Oriental Catholic Churches," in *The Jurist* 25 (1965) 202.

¹⁹⁰ OE n.9.

¹⁹¹ M. WOJNAR, "Decree on the Oriental Catholic Churches", art. cit., p. 201.

¹⁹² CCEO can. 150 §2: Leges a Synodo Episcoporum Ecclesiae patriarchalis latae et a Patriarcha promulgatae, si leges liturgicae sunt ubique terrarum vigent; si vero leges disciplinares sunt vel si de ceteris decisionibus Synodi agitur, vim iuris habent intra fines territori Ecclesiae patriarchalis.

§3: Velint episcopi eparchiales extra fines territorii Ecclesiae patriarchalis constituti legibus disciplinariis ceterisque decisionibus synodalibus, quae eorum competentiam non excedunt, in propriis eparchiis vim iuris tribuere; si vero hae leges vel decisiones a Sede Apostolica approbatae sunt, ubique terrarum vim iuris habent.

all the Oriental Catholic Churches.¹⁹³ The Synod of Bishops constitutes the superior tribunal in the Patriarchal Church according to the norm of CCEO canon 1062.¹⁹⁴ This canon especially reminds us of the autonomous character of the Oriental Catholic Churches. The Synod of Bishops also has the power to conduct the election of the patriarch, bishops and candidates for offices mentioned in CCEO canon 149.¹⁹⁵ The Synod of Bishops is not competent for administrative actions, unless for certain actions the patriarch establishes otherwise or certain actions reserved by Common Law to the Synod of Bishops, and with due regard for the canons which require the consent of the Synod of Bishops.¹⁹⁶ The Synod of Bishops defines more precisely the rights and obligations of metropolitans and of the metropolitan synods, according to the legitimate customs of the Patriarchal Church and to the circumstances of time and place.¹⁹⁷ The Synod of Bishops or council of hierarchs has the right to publish a particular programme for the training of clerics, in which Common Law is to be explained precisely for seminaries within the boundaries of the territory of their own Churches.¹⁹⁸ They are also competent to issue norms on catechetical formation in their territory, but observing the provisions made by the supreme authority of the Church.

¹⁹³ *Cleri Sanctitati* can. 243 §1. This expression is abandoned in the new Oriental Code because it does not correspond to the “*sacred canons*”, which, as to legislative power (it may be that time there were no clear distinctions as regards the word “power”) considered without any hesitation that the synod of every individual Church is the superior authority. Cfr. ZUZK, “The Patriarchal structure according to the Oriental Code”, art. cit., pp. 46-47.

¹⁹⁴ CCEO can. 110 §2; OE n.9.

¹⁹⁵ CCEO can. 149. Candidatos, saltem tres, ad officium Episcopi eparchialis, Episcopi coadiutoris vel Episcopi auxiliaris extra fines territorii Ecclesiae patriarchalis implendum Synodus Episcoporum Ecclesiae patriarchalis ad normam canonum de electionibus Episcoporum eligit et per Patriarcham Romano Pontifici ad nominationem proponit secreto servato ab omnibus, qui quomodolibet electionis exitum noverunt, etiam erga candidatos.

¹⁹⁶ CCEO can. 110 §4. Actus administrativi Synodo Episcoporum Ecclesiae patriarchalis non competunt, nisi pro certis actibus Patriarcha aliud statuit aut iure communi actus aliqui eidem Synodo reservantur et firmis canonibus, qui consensum Synodi Episcoporum Ecclesiae patriarchalis requirunt.

¹⁹⁷ CCEO can. 137. Synodus Episcoporum Ecclesiae patriarchalis pressius determinet iura et obligationes Metropolitanarum et Synodorum metropolitanarum secundum legitimas consuetudines propriae Ecclesiae patriarchalis necnon temporum et locorum adiuncta.

¹⁹⁸ CCEO can. 330 §1. Synodi Episcoporum Ecclesiae patriarchalis vel Consilii Hierarcharum est edere rationem institutionis clericorum, qua ius commune pressius explicandum est pro seminariis intra fines territorii propriae Ecclesiae sitis.

They must also see that catechisms suited to various groups of the faithful are prepared along with corresponding aids and means.¹⁹⁹

The other two organs in the Patriarchal Churches are the Permanent Synod and the Patriarchal *Conventus*.²⁰⁰ The Permanent Synod is an organ which belongs to the Patriarchal Curia,²⁰¹ designed to give help to the patriarch in the more important matters which concern the patriarchate.²⁰² The competence and composition and way of procedure of the Permanent Synod are prescribed in CCEO cans. 115-120. The law demands that for certain acts the patriarch should obtain the *consilium*²⁰³ or *consensus*²⁰⁴ of this synod.

The Patriarchal *Conventus* is a consultative body of the entire Church, presided over by the patriarch, which helps not only the patriarch but also the Synod of Bishops of the Patriarchal Church.²⁰⁵ The statutes for the Patriarchal *Conventus* must be approved by the Synod of Bishops.²⁰⁶ The membership of the *Conventus* is very extensive, as a result,

¹⁹⁹ CCEO can. 621 §1. Synodo Episcoporum Ecclesiae patriarchalis vel Consilio Hierarcharum competit intra fines territorii propriae Ecclesiae normas de institutione catechetica in directorium catecheticum apte componendas ferre servatis eis, quae a suprema Ecclesiae auctoritate praescripta sunt.

§3. Synodi Episcoporum Ecclesiae patriarchalis vel Consilii Hierarcharum est curare, ut catechismi ad varios coetus christifidelium accommodati simul cum subsidiis ac instrumentis provideantur necnon varia incepta catechetica provehantur atque inter se componantur.

²⁰⁰ De Conventu Patriarchali, CCEO cans. 140-145.

²⁰¹ CCEO can. 114 §1.

²⁰² *Cleri Sanctitati*, cans. 288-295.

²⁰³ CCEO, cans. 95 §2; 112 §2; 213 §2; 220 3°; 232 §3; 575 §1 2°; 928 1°; 1037 1°; 1103 §3; 1087 §2.

²⁰⁴ CCEO, cans. 65 §1; 83 §2; 85 §3; 90; 100; 103 §3; 106 §1 2°; 122 §1, §2; 141; 186 §1; 210 §3; 231 §1; 233 §1; 314 §1; 357 §1; 579; 363 1°; 397; 438 §1; 440 §3; 486 §1; 506 §2, §3; 507 §2; 583 §2 1°; 888 §2; 1036 §2 1°-3°, 1037 2°; 1054 §3; 1062 §2; 1063 §2; 1406 §1.

²⁰⁵ CCEO can. 140. Conventus patriarchalis est coetus consultivus totius Ecclesiae, cui Patriarcha praest, qui Patriarchae atque Synodo Episcoporum Ecclesiae patriarchalis adiutricem operam praestat in negotiis maioris momenti gerendis praesertim ad apostolatus formas ac rationes necnon disciplinam ecclesiasticam cum occurrentibus aetatis adiunctis atque bono communi propriae Ecclesiae, ratione etiam habita boni communis totius territorii, ubi plures Ecclesiae sui iuris exstant, apte componendas.

²⁰⁶ CCEO can. 145. Conventus patriarchalis sua habeat statuta a Synodo Episcoporum Ecclesiae patriarchalis approbata, in quibus normae ad finem conventus obtinendum necessariae contineantur.

persons of other *Ecclesiae sui iuris* can be invited to take part²⁰⁷ as well as observers from other non-Catholic Churches and communities.²⁰⁸ Consistent with subsidiarity within the Patriarchal Churches, the metropolitans can convoke the Metropolitan Synods in their provinces.²⁰⁹ Without any prejudice, all these norms are equally applicable in the major archepiscopal Churches,²¹⁰ however, in the case of Metropolitan Church, the law envisages a Council of Bishops in the place of the Synod of Bishops. Similarly, like the Patriarchal Convocation, there is also a convocation in the Metropolitan Church.²¹¹

14. Episcopal Conference in the Latin Church

Since Vatican II, the Episcopal Conference has great importance in the Latin Church, since through the promulgation of the Code of Canon Law of 1983 it became a juridical institute.²¹² The socio-political circumstances in the second half of the 19th century were largely responsible for the development of episcopal conferences in various parts of the world, especially in Europe.²¹³ In the beginning episcopal conferences had no juridical status, power or legislative authority; though as gatherings of prelates, they had moral force which led to common action.²¹⁴ Juridically the Conference is a Latin institution, but in some countries like the USA,

²⁰⁷ CCEO can. 143 §3. Personae alterius Ecclesiae sui iuris ad conventum patriarchalem invitari et in eo partem habere possunt ad normam statutorum.

²⁰⁸ CCEO can. 143 §4. Ad conventum patriarchalem etiam invitari possunt aliquot observatores ex Ecclesiis vel Communitatibus ecclesialibus acatholicis.

²⁰⁹ CCEO can. 133 §1 n.2. Synodum metropolitanam temporibus a Synodo Episcoporum Ecclesiae patriarchalis statutis convocare, quaestiones in ea tractandas opportune instruere, Synodo praeesse, eam transferre, prorogare, suspendere et dissolvere.

²¹⁰ CCEO can. 152. Quae in iure communi de Ecclesiis patriarchalibus vel de Patriarchis dicuntur, de Ecclesiis archiepiscopalibus maioribus vel de Archiepiscopis maioribus valere intelleguntur, nisi aliter iure communi expresse cavetur vel ex natura rei constat.

²¹¹ CCEO cans. 164-172.

²¹² CIC can. 449 §2. Episcoporum conferentia legitime erecta ipso iure personalitate iuridica gaudet.

²¹³ For the detailed study about the origin and development of the episcopal conferences, cfr. F. CARROLL, *The Development of Episcopal Conferences*, Sydney, 1965; G. FELICIANI, *Le Conferenze Episcopali*, Bologna, 1974.

²¹⁴ M. BONNET, "The Episcopal Conference," in *Concilium* (1965) 26; P. HUIZING, "The Structure of the Episcopal Conference," in *The Jurist* 28 (1968) 164.

Canada, Germany, France, Argentina, Brazil, Greece, Italo-Albanian, Ethiopia and Australia,²¹⁵ Oriental bishops have membership in the Latin national or regional conferences in accordance with their statutes.

In 1963 the schema *De episcopis ac de dioecesium regimine* was presented to the Council Fathers,²¹⁶ Chapter Three of which dealt with episcopal conferences, an hierarchical intermediary between the Pope and bishops, empowered to make legally binding decisions for its own region in a strictly circumscribed sphere.²¹⁷ After long discussion, the Council Fathers approved the Schema of the Decree *On the Bishop's Pastoral Office in the Church (Christus Dominus)*, and Pope Paul VI promulgated it on 28 October 1965.²¹⁸ It recognized and gave more emphasis to the significant role of episcopal conferences in harmonizing the apostolate of various nations and recommended the formation of such conferences in every nation or region. The important and decisive provision is n.37, which recognized the juridical status of the national episcopal conference.²¹⁹ It became a hierarchical structure in the Latin Church, but CD 38 §6 seemed to exclude the Oriental Rite prelates since most Oriental Churches already had a well-established synodal system beyond the eparchial level.²²⁰

According to *Christus Dominus*, the episcopal conference is a body of bishops of a certain nation or territory who come together to promote the apostolate more effectively (CD 38 §1). Without any modification of the text of *Christus Dominus*, canon 447 of the CIC 1983 gives the purpose of this new institution.²²¹ All local ordinaries of whatever rite are *de iure* members (CD 38 §2); local ordinaries and coadjutor bishops

²¹⁵ GEORGE MADATHIKANDATHIL, *The Catholic Bishop's Conference of India: an Interecclesial Assembly* (unpublished doctoral thesis), Rome, 1989, pp. 96-99, 253.

²¹⁶ Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II., vol.II pars IV, Congregationes Generales LIX-LXIV, Typis Polyglottis Vaticanis, 1972, pp. 371-376.

²¹⁷ K. MÖRSDORF, "Decree on the Bishops Pastoral Office in the Church", in *Commentary on the Documents of Vatican II*, ed., H. Vorgrimler, vol. 2, New York, 1968, p. 179.

²¹⁸ Acta Synodalia vol.IV, pars V, pp. 557-584; AAS 58 (1966) 673-701.

²¹⁹ Cfr. K. MÖRSDORF, "Decree on the Bishop's Pastoral Office", art. cit., p. 285.

²²⁰ G.MADATHIKANDATHIL, *The Catholic Bishop's Conference of India: an Interecclesial Assembly*, op. cit., p. 79.

²²¹ CIC can. 447. Episcoporum conferentia, institutum quidem permanens, est coetus Episcoporum alicuius nationis vel certi territorii, munera quaedam pastoralia coniunctim pro

have deliberative votes (CD 38 §2). Every conference should draw up its own statutes (CD 38 §3). The decisions taken by a two-thirds majority and approved by the Holy See have juridical force (CD 38 §4). There can be conferences of different nations (CD 38 §5). Oriental prelates are to encourage interritual meetings where there are Churches of different rites (CD 38 §6). The *motu proprio* of 6 August 1966, *Ecclesiae Sanctae* also emphasized the need to establish episcopal conferences where they were not yet started and to draw up their statutes (ES 41).

14.1. The CIC and the Orientals' Participation

According to the 1983 Code, the bishops of the Oriental Churches are not *de iure members* of the episcopal conference; but if the statutes of any conference grant, they may have membership. Canon 450 of the 1983 Code says that the bishops of other rites may be invited, but have only a consultative vote unless the statutes of the Episcopal Conference decree otherwise.²²² Thus the participation of bishops from other rites mentioned in the canon 450 §1 is considered an exception rather than a rule.²²³ According to M. Brogi, the Pontifical Commission for the Codification of the Latin Canon Law chose a way of compromise, which does not compel Oriental hierarchs to participate in the episcopal conference and agrees that the code is concerned only with the Latin Church. Moreover, it gives assurance to those who consider the episcopal conference as a legislative organ of the Latin Church that Oriental hierarchs are not *ipso iure* members of the conference. For Father Brogi, the present norm of the 1983 Latin Code reassures Oriental hierarchs that they need not fear the interference of Latin hierarchs in matters proper to their Churches.²²⁴

christifidelibus sui territorii exercentium, ad maius bonum provehendurn, quod hominibus praebet Ecclesia, praesertim per apostolatus formas et rationes temporis et loci adiunctis apte accommodatas, ad normam iuris.

²²² CIC can. 450 §1. "...;invitari quoque possunt Ordinarii alterius ritus, ita tamen ut votum tantum consultivum habeant, nisi Episcoporum conferentiae statuta aliud decernant."

²²³ J. FARIS, "Interritual Matters in the Revised Code of Canon Law", in *Studia Canonica* 17 (1983) 258.

²²⁴ La Commissione codificatrice ha così scelto una via di compromesso: essa non costringe i gerarchi orientali a partecipare alle conferenze episcopali, e ciò, in fin dei conti, è in piena coerenza con il dettato del can.1, che cioè il codice riguarda soltanto la Chiesa latina; ciò

15. Present Structures of the Three Ecclesiae Sui Iuris in India

The Church in India is a communion of three *Ecclesiae sui iuris*, namely the Syro-Malabar Church, the Syro-Malankara Church and the Latin Church, each having its own hierarchical structure. Internal matters of the three Churches are regulated according to the canonical legislation and legitimate customs proper to each Church. Besides these three hierarchical structures, there is an inter-ecclesial assembly existing in the Catholic Church of India which is called the *Catholic Bishops' Conference of India*.

15.1. The Synod of the Syro-Malabar Church

The hierarchical structure of the Syro-Malabar Church was first established with the erection of Ernakulam as the metropolitan See on 21 December 1923 by the Apostolic Constitution *Romani Pontifices*.²²⁵ With the establishment of this hierarchy Syro-Malabar Church there began a new phase in the life of the Indian Church. As a consequence, later, on 10 January 1959, by the Apostolic Constitution *Regnum caelorum* of Pope John XXIII raised the diocese of Changanacherry to the status of an archdiocese²²⁶ and erected it as the second ecclesiastical province for this Church. For uniting all their works, then, the Syro-Malabar Church was constituted her own Bishops Conference on the basis of the teachings of the Second Vatican Council especially the Decree on the Bishop's Pastoral Office in the Church (CD 38). It was functioned even after the promulgation of the Code of Canons of the Eastern Churches in 1990.

rassicura inoltre quanti considerano la conferenza episcopale come un organo legislativo della Chiesa latina, e non trovano logica la partecipazione << ipso iure >> dei gerarchi orientali.

Potremmo aggiungere che ciò può rassicurare anche i gerarchi orientali che temessero un'ingerenza di quelli latini nelle questioni proprie. Cfr. M. BROGI, "I Cattolici Orientali nel Codex Iuris Canonici", in *Antonianum* 58 (1983) 235.

²²⁵ AAS 16 (1924) 257-262. Cfr. PODIPARA, *The Hierarchy of the Syro-Malabar Church*, Alleppey, 1976.

²²⁶ AAS 51 (1959) 580-581.

Eventhough, especially after the promulgation of the CCEO, the juridical status of the Syro-Malabar Church and the existance of its Bishops Conference was questioned by many of the oriental canonists on the basis of the new Oriental Code. Actually there was an anomalous situation arose in the very existance of this Church particularly after the promulgation of the new Oriental Code. The above situation was removed by the timely intervention of the Holy See through the elevation of the Syro-Malabar Church to the rank of the Major Archiepiscopal Church.²²⁷ With this new elevation there are several changes came in to effect in the life of this Church.²²⁸ Among other changes, one of the important change happened is the Synod of Bishops instead of Syro-Malabar Bishops Conference (CCEO cc.102-113).

As regards the Synod of Bishops, the CCEO deals a set of canons under the heading of "The Patriarchal Churches" in Chapter III of the title IV (cc.102-113). Basing on the teaching of the Second Vatican Council especially on the *Orientalium Ecclesiarum*, the canon 103 of the CCEO says that the Patriarch is to convoke the Synod of Bishops of the Patriarchal Church and to preside over it. But in the case of the Syro-Malabar Church, it is the duty of the Major Archbishop to convoke the Synod and preside over it according to the norm of canon 152 and thus, it became the superior authority of the Syro-Malabar Church. It is comprised only of all ordained bishops of the respective Church, whether they are constituted inside or outside of its territory.²²⁹

In this way the Code of Canons of the Eastern Churches gives a set of canons for the Synod of Bishops in order to provide all kinds of pastoral assistance in favour of their respective Churches. Now it is also the duty of the Synod of the Syro-Malabar Church to put in to practice all the norms of CCEO infavour of her Church and her faithful.

²²⁷ Bolletino della Sala Stampa di Santa Sede, 29 January 1993, 42 (1993) 9.

²²⁸ Cfr. p.6

²²⁹ For more detail cfr. pp. 240-244

15.2. The Syro-Malankara Church Council

After the St. Thomas Christians' Revolution,²³⁰ one group embraced the Jacobite faith and Antiochian liturgy, is the origin of the Malankara Orthodox Church in India.²³¹ The Syro-Malankara Church made various attempts to establish communion with Rome, but it was only in 1930 that it became partially successful. Mar Ivanios, Metropolitan of Bethany, and his suffragan Mar Theophilos with their representatives, reestablished communion with Rome and made their profession of faith on 20 September 1930.²³² The Apostolic Constitution *Christo Pastorum Principi* of Pope Pius XI on 11 June 1932 erected an ecclesiastical province for this Church.²³³

Today there are five bishops and three eparchies, including one metropolitan. The metropolitan, assisted by a Council of Hierarchs, has jurisdiction over the entire Syro-Malankara Church, provided the supreme authority of the Church so establishes. However, as Malancharuvil observes, "the fullness of the hierarchical structure of the Syro-Malankara Church itself is one in which we find a Catholicos with his synod exercising Patriarchal powers."²³⁴ At present there is a Council of Bishops as the ritual episcopal body.

15.3. Episcopal Conference for the Latin Church

The Latin Church was established in India with the arrival of the Portuguese missionaries in the sixteenth century.²³⁵ The Latin diocese of

²³⁰ J. KOLLAPARAMBIL, *The St. Thomas Christian's Revolution in 1653*, Kottayam, 1981; J. THEKKEDATH, *The Troubled Days of Francis Gracia S.J., Archbishop of Cranganore (1641-1659)*, Rome, 1974.

²³¹ MADATHIKANDATHIL, *The Catholic Bishop's Conference of India: an Interecclesial Assembly*, op. cit., p. 169.

²³² For more detailed study cfr. MALANCHARUVIL, *The Syro-Malankara Church*, op. cit., p. 131.

²³³ AAS 24 (1932) 289-292.

²³⁴ MALANCHARUVIL, *The Syro-Malankara Church*, op. cit., p. 144.

²³⁵ MORAES, *A History of Christianity in India*, op. cit., pp. 87-105; RAE MILNE, *The Syrian Church in India*, London, 1892, pp. 193-195; PANJIKARAN, JOSEPH C., "Christianity in Malabar with Special Reference to the St. Thomas Christians of the Syro-Malabar Rite," *Orientalia Christiana* 6 (1926) 103.

Goa was erected in 1533,²³⁶ and in 1558 was raised to an Archdiocese with Cochin as its suffragan, both under the Padroado.²³⁷ The Latin hierarchy in India was established on 1 September 1886 by the Bull *Humanae Salutis*.²³⁸ At present there are fifteen Ecclesiastical Provinces with ninety-seven ecclesiastical circumscriptions of the Latin Church.²³⁹

According to the Code of Canon Law, there should be a national Episcopal Conference for the Latin Church to coordinate activities within a nation. Recently a separate Episcopal Conference was formed on 22 April 1988.²⁴⁰ Formerly the Latin bishops used *The Catholic Bishops' Conference of India* for matters pertaining to the Latin Church.

15.4. The Catholic Bishops' Conference of India

The Catholic Bishops' Conference of India (CBCI) was established in 1944 as an episcopal body of all bishops of the three Catholic Churches in India. The following year the statutes of the Conference were published under the heading of *Statutes of the Catholic Bishops' Conference of India* (CBCI).²⁴¹ The statutes underwent many changes and revisions, especially during the First Plenary Council of India and after the Second Vatican Council, particularly on the basis of *Christus Dominus* n.38, *Orientalium Ecclesiarum* n.4, and the promulgation of the present Code of Canon Law in 1983.²⁴²

The new statutes of the Catholic Bishops' Conference of India²⁴³ were drawn up on the basis of the nature of the Church as a communion

²³⁶ *Bullarium Patronatus Portugalliae Regum*, vol.1, Lisbon, 1868, pp. 148-152; WICKI, "The Portuguese Padroado in India in the 16th century and St. Francis Xavier" in *Christianity in India* ed., H.C. Perumalil and E.R. Hambye, Alleppey, 1972, p. 50.

²³⁷ *Bullarium Patronatus Portugalliae Regum*, vol.1, op. cit., pp. 193-195.

²³⁸ ASS 19 (1886) 176-184.

²³⁹ *Annuario Pontificio* 1992.

²⁴⁰ *Catholic India* 9 (1988) 142. The Episcopal Conference of the Latin Church is called the Conference of Catholic Bishops of India (CCBI-Latin).

²⁴¹ *Statutes of the Catholic Bishops' Conference of India*, Madras, 1945.

²⁴² The revisions of the Statutes were made in 1950, 1960, 1966, 1972, 1976 and 1988.

²⁴³ The new Statutes of the Catholic Bishops' Conference of India is the fruit of the *Letter of the Holy Father to the Bishops of India* to find a solution to the inter-ritual problems in India. Basing his thoughts on the conciliar documents especially *Christus Dominus* and *Orientalium Ecclesiarum*, the Holy Father wrote this letter on 28 May 1987 addressed to all

of different *Ecclesiae Sui Iuris*. The Church reality in India consists of three Churches whose activities are to be coordinated by a common body in which the bishops of these three Churches have equal status. The preamble of the revised statutes says that "the National Conference of all the Catholic Bishops of India" exists "for questions of common concern and of a national and supra-ritual character." The nature of the CBCI is mentioned in articles 2 and 3 and the purpose is mentioned in articles 4 to 6. The phrase *Catholic Bishops of India*, based on the principles of *Christus Dominus* n.3 and 38 and *Orientalium Ecclesiarum* n.4 article 2 of the Statutes, emphasizes the joint activity of all bishops belonging to the three Churches. The consultative nature of the conference is treated in article 3 of the Statutes. The decisions and resolutions of the CBCI by themselves have no binding force on the members or on their subjects (art.3b). According to CIC c.455 §1 and §2²⁴⁴ the decisions of the episcopal conferences have binding force on the members under certain conditions. But the CBCI is an interecclesial organization and, therefore, cannot interfere in the internal affairs of the *Ecclesiae sui iuris*. Article 3a of the Statutes clearly refers to the preservation of the legitimate autonomy of these *Ecclesiae sui iuris*. CCEO c.322 §2²⁴⁵ grants binding force to decisions of interecclesial assemblies that are not prejudicial to the *Ecclesiae sui iuris* or to the authority of the patriarchs, synods, metropolitans and councils of hierarchs, provided they are passed by a two-thirds majority and receive the approval of the Apostolic See. This

the bishops of India. Cfr. Report of the General Meeting of the Catholic Bishops' Conference of India, 1988, p. 238. This letter was not published in AAS.

²⁴⁴ CIC can. 455 §1. Episcoporum conferentia decreta generalia ferre tantummodo potest in causis, in quibus ius universale id praescripserit aut peculiare Apostolicae Sedis mandatum sive motu proprio sive ad petitionem ipsius conferentiae id statuerit.

§2. Decreta de quibus in §1, ut valide ferantur in plenario conventu, per duas saltem ex tribus partibus suffragiorum Praesulum, qui voto deliberativo fruenter ad conferentiam pertinent, proferri debent, atque vim obligandi non obtinent, nisi ab Apostolica Sede recognita, legitime promulgata fuerint.

²⁴⁵ CCEO can.322 §2. Decisiones huius conventus vim iuridice obligandi non habent, nisi de eis agitur, quae nulli possunt esse praeiudicio ritui uniuscuiusque Ecclesiae sui iuris vel potestati Patriarcharum, Synodorum, Metropolitaram atque Consiliorum Hierarcharum atque simul saltem per duas ex tribus partibus suffragiorum membrorum suffragium deliberativum habentium latae necnon a Sede Apostolica approbatae sunt. This canon is lacking in the CIC.

provision of the CCEO is not contained either in the present Statutes of the CBCI nor in the Code of Canon Law of the Latin Church.

As to the various episcopal bodies of the *Ecclesiae sui iuris* in India, article 4 of its Statutes says the CBCI will maintain cordial relations with them all. In addition to above mentioned relations, the CBCI shall be the coordinating organ to promote the communion and collaboration among these three Churches (art.4).

The general purpose of the CBCI, is mentioned in article 5, according to which the CBCI is to facilitate the coordinated study and discussion of questions of common concern and of a national and supra-ritual character affecting the Church in India and the prosecution of a common policy and concerted action. To formulate common policy and concerted action in every field is very necessary in the life of the Church in India to give witness to Christ more effectively in the service of the People of God, especially in present day circumstances. Article 6 of the Statutes enumerates the purpose of the CBCI in a very detailed manner.²⁴⁶

²⁴⁶ Art. 6. In particular the Conference intends:

- a) to promote among its members, and through them in the Church at large:
 - i. a constant on-going process of self-renewal in Christian living;
 - ii. fidelity to Christian living and Catholic doctrine and morals;
 - iii. greater knowledge of all aspects of the life of the Church in all territories of India;
- b) to express through statements and representations the common standpoint of its members on matters of common concern falling within the limits of their jurisdiction;
- c) to promote concerted action with regard to and guidance on, among other things:
 - i. the integration of Christian education into the whole pattern of human life in India in all its aspects;
 - ii. the adaptation of priestly life and formation to the special needs and challenges of our modern times;
 - iii. an increasing participation of our laity in the mission of the Church and strengthening of Christian values in family life;
 - iv. a deeper Christian consciousness of the human needs of our society, together with a serious study of its problems and a selfless and courageous contribution to the common effort to solve them;
 - v. a greater appreciation of the religious values contained in other Churches and faiths and of the sincere quest of the people for things, fruitful dialogue and finally, unity in the Kingdom of God;
 - vi. recognizing the rights and obligations of the different Churches, the organization and co-ordination of the missionary activity in the country in such a way as to promote an evangelization that is truly effective;

Conclusion

The intent of this chapter is to see briefly, but precisely, the historical development of the concept of rite. The term '*rite*' has significance not only in the Church but also in the secular field, especially in Roman culture. Therefore, the word *rite* has different meanings and nuances, such as liturgy, customs, ceremonies, way of living, liturgical rules, attributed to the particular people and community, nations, and traditions. The evolution of the term continued until the encyclical letter *Orientalium Dignitas* of Pope Leo XIII, in which the Pope recognized the *sui iuris* character of different ecclesiastical communities. From that time onwards there was a continuous attempt in the Universal Church to give a precise meaning to the concept of rite. The Code of Canon Law of 1917 and then, the motu proprio *Postquam Apostolicis Litteris* were the first stages of this process. Later, the Second Vatican Council tried to give a better, more real notion and was successful to some extent. However, there was still a lack of clarity owing to confusion in usage of the term in the various conciliar documents. The Code Commission almost solved the problem, particularly in the codification period of the Latin Code of Canon Law of 1983. Finally, a clear notion of the concept of *rite* came into existence through the promulgation of the Oriental Code in 1990, in which the notion of *rite* and the *Church* are clearly stated in the CCEO cans. 27 & 28.

- vii. a far-seeing training in the full and proper use of the modern means of social communication to obtain from them the greatest advantage for the apostolate of the Church and the welfare of the country;
- d) to deal with issues relating to the Central and State Governments, as also other national and international Organizations as and when required;
- e) to establish, supervise and control the National Centres and Organizations set up by the Conference;
- f) to deal with other National Catholic Organizations;
- g) to assist its members in matters of common concern, to help, when so requested, Catholic works and movements, and to provide reliable information on questions affecting the life and work of the Church;
- h) to attend all other assignments envisaged in the Vatican Council documents and in subsequent documents of a similar nature, for Episcopal Conference.

Thus, with the promulgation of the new Oriental Code, the age-long confusion regarding the *concept of rite* was solved and a clear distinction between *Ritus* and *Ecclesia sui iuris* was established. Pursuing the real concept of rite, we tried to show how one can become a member of an *Ecclesia sui iuris*; we examined as well the existing differences between CIC and CCEO with regard to the acquisition of membership. Having seen the equality and communion between the different *Ecclesiae sui iuris*, we reviewed the different structures of these Churches: in the East, the Patriarchal Synod whereas in the West, the Episcopal Conference. In view of these structures of the different *Ecclesiae sui iuris*, we analysed the different structures of the three Indian Churches. Specifically in reference to the Syro-Malabar migrants, in the next chapter we will try to analyze the principal documents connected with the phenomena of migration and the pastoral care of migrants.

CHAPTER THREE

Sources of the Pastoral Care of Migrants and Preservation of the Rite

Introduction

On the occasion of the *National Emigrants' Day* on 19 November 1978, Pope John Paul II said, "I wish, with common prayer, to join all those who, for different reasons, particularly in search of work, earnings, and better living conditions are outside their country, outside Italy." Seeing the difficulties in human mobility he continued, "Emigration is a universal phenomenon. It is impossible to contain in few words all that should be said in this connection. One thing is certain: on this way, we must go, with thought and heart, from so many homes of ours, from so many localities of our native soil, to other countries, other localities, other places of work, ...Wherever you are in the world, preserve in faith and keep the noble heritage which you brought from your native land."¹

For the participants of the first World Pastoral Congress on Emigration on 14 March 1979, the Pope again stressed his anxiety about this phenomenon. He said:

Need I tell you that I remain very sensitive to the pastoral problems that you study: how to provide Catholic communities of emigrants with the ecclesial assistance, and in particular the priestly ministry, which they need? ... And more generally we must ask ourselves: what attitude should the local Church adopt towards migrants whoever they are?

¹ JOHN PAUL II, "Dovunque vi troviate nel mondo perseverate nella fede: Per la giornata nazionale del migrante Angelus Domini", on 19 November 1978, in *On the Move*, 40(1984) 39.

Because emigration is a mass phenomenon of our time, a phenomenon, yet one which is assuming new forms, and one which affects all continents, and almost all countries, it raises serious human and spiritual problems. It is a challenge--that is, both a risk and an opportunity--for immigrants and for those who receive them. Yes, it does involve, for the former, a serious risk of uprooting, dehumanization and, in some cases, dechristianization; for the later, a risk of self-enclosure and intransigence. But it also is an opportunity for human and spiritual enrichment, opening, welcoming of foreigners and reciprocal renewal in contact with them.

It is the task of the whole local Church, priests, religious and laity; it is whole local Church which must take migrants into account, adopt a welcoming attitude and be ready for mutual exchanges.... Their pastor's heart must consider emigrants in the various dimensions of their complex life. On the one hand, they must help them to safeguard, or rather to strengthen, their religious, family and cultural values, if they are the heritage of Christian generations, for they risk being weakened without being replaced. On the other hand, they cannot forget that these emigrants have also by now become influenced by their host country, in which moreover they have a role to play,... The priest, or rather the priests who are called to work as team, together with religious and laity, must be both prudent and open, at the meeting-point of these two cultures, especially with a view to preparing the new generations which remain in the host country.²

Narrating the tragic situations of the migrant people he wanted to call our attention to his personal experience as bishop, as cardinal and above all as Roman Pontiff. He said:

I am well acquainted with the phenomenon and problems of world emigration, because, before shouldering the heavy responsibility of the whole Church, as bishop and as cardinal, several times to meet fellow-countrymen who had left their homeland to emigrate to various countries in the world, on both sides of the ocean, and in my international journeys in the last three years I have always had contact with immigrant groups in the host nation.³

Thus, through these messages of the Roman Pontiff, we understand the task of the Church towards the problems of human mobility in the modern changing world. For fulfilling this task which her Divine Master

² JOHN PAUL II, "L'engagement de l'Eglise", in *On the Move* 40 (1984) 41-43.

³ JOHN PAUL II, "Impegno della Chiesa locale nella cura pastorale dei migranti", in *On the Move* 40 (1984) 94-95.

entrusted to her, she is always obliged “to scrutinize the signs of the times and then interpret them in the light of the Gospel,” because “she dwells among creatures who groan and travail in pain until now and await the revelation of the sons of God (LG n.48).” Furthermore, of those who are involved in this migratory phenomena, Vatican II states that, “united in Christ, they are led by the Holy Spirit in their journey to the kingdom of their Father (GS n.1).” In this context, we will try to analyze the sources regarding the pastoral care of migrants and preservation of rite, because these are the main documents in the Church’s legislation concerning human mobility from which both Codes, CIC and CCEO, have gathered all the fundamental directives of the Church on the pastoral care of migrants. Therefore, with a short summing up of these documents we intended to present the various structures given by these documents in order to meet the spiritual and special human needs of the migrants, especially Syro-Malabar Catholic Migrants.

1. Documents Regarding the Pastoral Care of Latin Migrants

1.1. Pre-Second Vatican Council Documents

1.1.1. The Apostolic Constitution *Exsul Familia*

The pastoral care of migrants has always attracted the maternal attention and solicitude of the Church⁴, because it is not a new reality of our times, but it is as old as her history. The doctrinal interventions of the Church as regards human mobility are enormous, and she is continuing through various ways to defend the rights of migrants based upon her experiences throughout the centuries of history.

At the end of the last century, especially in 1820s, due to the massive transfer of the European population to America, the Church was involved more seriously with the phenomenon of migration. Later, an exceptional explosion of migration en masse took place right after the Second World War. As a result the political and religious refugees, prisoners of war, and the homeless, sought the Church’s assistance.

⁴ PAUL VI, Apostolic Letter, *Pastoralis Migratorum Cura, datae quibus novae normae de pastoralis migratorum cura statuuntur*, AAS 61 (1969) 601.

Having learned from past experience, the Church found herself better prepared and better equipped with numerous offices, such as Relief Committees, Vatican information Office, the Pontifical Commission for Assistance, the Pontifical Commission for Assistance to Refugees, later changed to the Pontifical Commission for Relief, and various missions arranged in several countries. Thus the Church was well-aware of the need for the organization of pastoral structures for the care of migrants and finally published her well-studied Apostolic Constitution *Exsul Familia*,⁵ the *Church's Magna Charta for the Migrants*,⁶ issued by Pope Pius XII on 1 August 1952. It is the first fundamental document which tried to treat the problems of the pastoral care of migrants in a unified and structured manner. The new legislation aimed to construct a juridical organization for spiritual assistance of migrants in order to guarantee the same religious and spiritual benefit that they enjoyed in their own homeland. This concern is explicitly stated in the following manner:

Holy Mother Church, impelled by her ardent love of souls, has striven to fulfill the duties of the mandate of universal salvation, entrusted by Christ, in no way hesitated to take care, even of pilgrims, strangers, exiles, of all immigrants, without sparing her forces and using priests, who through the administering of the sacraments and the preaching of the divine word, could work with solicitude to confirm Christians into the faith and to tighten the bonds of Charity⁷.

As a Magna Charta for migrants, the Apostolic Constitution is made up of two parts preceded by a brief introduction. The first part, predominantly historical, is the most extensive part setting forth the Church's maternal concern and interventions in the entire field of migra-

⁵ PIUS XII, Apostolic Constitution, *Exsul Familia*, AAS 44 (1952) 649-704. (henceforth, *Exsul familia*).

⁶ Cfr. GIULIVO TESSAROLO, *The Church's Magna Charta for Migrants*, St. Charles Seminary, Staten Island, New York, 1962. (henceforth, G. TESSAROLO).

⁷ "Sancta igitur Mater Ecclesia, impenso animarum amore compulsa, partes universalis salvifici mandati sisbi a Christo concrediti implere contendit, curam praesertim spiritualem etiam de peregrinis, de advenis, de exsulibus, de emigrantibus universis pro viribus gerens ope in primis sacerdotum, qui gratiae charismatum collatione ac divini verbi praedicatione christifidelium fidem caritatis vinculo sollicito confirmarent". *Exsul Familia*, p. 649; Pontificia Commissione per la Pastorale delle Migrazioni, *Chiesa e Mobilità Umana: Documenti della Santa Sede dal 1883 al 1983*, Centro Studi Emigrazione, 1985, n.1035 (henceforth, DSS); Cfr. G. TESSAROLO, p. 25.

tion. The second part is shorter and provides many norms for the spiritual welfare of the migrants. To show the importance of this normative section, Father V. De Paolis said: "It presents itself as *a systematic collection* of laws with which the Holy See intends to make better provision for the spiritual care of emigrants in every situation, and this she does in the solemn form of an Apostolic Constitution."⁸ Let us take a glance specifically at the normative parts of the document.

1.1.1.1. The Normative Part of *Exsul Familia*

The normative part of the Constitution is divided into six chapters.⁹ The most important aspect in this part is that of the priests and missionaries called upon to carry out the pastoral care of migrants. We see the encouragement given by the Constitution to establish personal parishes for various languages or nationality groups. Exact and detailed norms and instructions are given for the organization of pastoral care for migrants and wayfarers in full accord with the Code of Canon Law (1917). Let us examine the important norms in relation to the pastoral care of migrants.

1.1.1.2. The Competency of the Sacred Consistorial Congregation Regarding Migrants.

The primary and exclusive duty of the Sacred Consistorial Congregation is to care for migrants of the Latin Rite, whatever be the place of emigration.¹⁰ However, if their migration is to countries under the jurisdiction of the Congregation for the Oriental Church or the Congregation for the Propagation of Faith, these Congregations must be consulted

⁸ Cfr. VELASIO DE PAOLIS, *The Pastoral Care of Migrants in the Teaching and in the Directives of the Church*, in *Migrations*, Vatican City, 1985, p. 121.

⁹ They are, "the competency of the Sacred Consistorial Congregation Regarding Migrants, the Delegate for Migration Affairs, Concerning Directors, Missionaries of Migrants, and Ship Chaplains, the Care of souls to be Exercised by Local Ordinaries for Aliens, the Spiritual Assistance to be given to Migrants by the Bishops of Italy and the Pontifical College of Priests for Italian Migrants."

¹⁰ "Sacrae Nostrae Consistorialis Congregationis est eidemque exclusive competit quaerere et ea omnia parare quae spirituali bono cedant emigrantium Latini ritus quocumque pergentium...". *Exsul Familia*, Caput I, n. §1; DSS n. 1136.

depending upon the region.¹¹ In the case of the Oriental Rite emigrants who are not subject to the territories of the Congregation of the Oriental Church, the Constitution gives the competence to the Consistorial Congregation to perform the same duty towards these faithful in accordance with the Sacred Congregation of the Oriental Church.¹²

The other competencies of the Sacred Consistorial Congregation are: the competency regarding the delegate for migration affairs; the directors, missionaries to migrants and ship chaplains; the spiritual care that the local ordinaries are to provide aliens; the spiritual care to be provided to migrants by Italian bishops; and the pontifical college of priests at the service of Italian migrants.

1.1.2. Main Juridical Structures for the Pastoral Care of Migrants

1.1.2.1. The Ecclesiastical Offices

These offices are mainly devoted to priests, officially nominated by the Sacred Consistorial Congregation to give pastoral care for migrants in its full swing. Under these offices the pastoral care of migrants is carried out in an organized way according to the direction of the Sacred Consistorial Congregation. A description of the main ecclesiastical offices envisaged by the Apostolic Constitution follows.

1.1.2.1.1. The Supreme Council for Migration

First of all, let us recall the most important act of Pope Pius X on behalf of migrants, namely the establishment of the Special office in the Sacred Consistorial Congregation for the Spiritual Care of Latin Migrants. Constituting the Special Office he says:

¹¹ "... collatis consiliis cum Sacra Congregatione pro Ecclesia Orientali vel cum Sacra Congregatione de Propaganda Fide si agatur de adeundis territoriis quae sint isti vel illi Sacrae Congregationi subiecta". *Exsul Familia*, Caput I, n. 1 §1. DSS, n. 1136.

¹² "Sacrae Nostrae Consistorialis Congregationis est eadem quaerere et parare in favorem emigrantium Orientalium rituum, initis pariter consiliis cum Sacra Congregatione pro Ecclesia Orientali, quotiescumque emigrantes unius vel alterius ritus Orientalis loca petant eidem Sacrae Congregationi pro Ecclesia Orientali haud obnoxia nec praesto sit sacerdos proprii ritus". *Exsul Familia*, Caput I, n. 1 §2; DSS, n. 1137.

Its purpose is to seek out and provide everything to improve the condition of the migrants of the Roman Rite in all that pertains to the welfare of souls. With regard to migrants of Eastern Rites, however, the rights of the Congregation for the propagation of the Faith are to be observed. This congregation may, within its competence, make appropriate provision for them. The Special Office, however, has exclusive charge of migrants who are priests.¹³

In the same way Pope Pius XII set up the Supreme Council in order to facilitate the work of assisting emigrants.¹⁴ Its president is the Assessor of the same congregation and its secretary, the Delegate for Migration Affairs. The members of the Council are those priests who in their own country or region either serve as secretaries of the Episcopal Commissions for the spiritual care of immigrants or are otherwise engaged at the direction of their bishops; and those priests, resident in Rome, whether secular or religious, who are outstanding because of their knowledge in this field.¹⁵

1.1.2.1.2. The Delegate for Migration Affairs

The responsibilities of the delegate for migration affairs¹⁶ is to foster and promote by every apt means the welfare, especially spiritual, of Catholic migrants of whatever language, race, nationality or--with necessary exceptions--rite; and he is also to assist and support by his activities and counsel all Catholic organizations, institutions, whether

¹³ PIUS X, motu proprio, *Cum omnes catholicos*, AAS 4 (1912) 526 f. "Peculiare Officium apud S. Congregationem Consistorialem de spirituali emigrantium cura constitutum, rerum omnium gestarum profecto est potissima. Cuius "Officii partes erunt --ut B. Pius X aiebat-- quaerere et parare omnia, quaecumque opus sint, ut in iis quae ad salutem animarum pertinent, emigrantium latini ritus melior conditio fiat, salvo tamen iure Sacrae Congregationis Fidei Propagandae in emigrantes ritus orientalis, quibus eadem Congregatio pro suo instituto opportune consulat. Ac de sacerdotibus ipsis emigrantibus hoc idem unice cavebit Officium". *Exsul Familia*, p. 664.

N.B: After the promulgation of the motu proprio *Cum omnes catholicos* the Sacred Consistorial Congregation emanated the laws to govern the emigration of priests who desired to transfer from certain regions of Europe to America and the Philippine Islands or to dedicate themselves to the assistance of the Italian emigrants.

¹⁴ "Quo vero opera pro emigrantibus navanda facilius evadat, praesentibus Litteris erigimus et instituimus apud praedictam Nostram Sacram Consistorialem Congregationem Summum Consilium de emigratione. *Exsul Familia*, Caput I, 7 §1; DSS, n. 1162.

¹⁵ *Exsul Familia*, Caput I, 7 §2 and §3; DSS, nn. 1163, 1164.

¹⁶ *Exsul Familia*, Caput II, nn.9-17; DSS, nn.1170-1182.

national or international.¹⁷ In doing this, he has charge of missionaries to migrants and chaplains on ships and also, by the order of the Consistorial Congregation, he shall direct and supervise them.¹⁸ Every year he has to prepare and send to the Consistorial Congregation a report on the material and spiritual state of the missions and on the observance of ecclesiastical discipline by the missionaries to migrants.¹⁹ It is his duty to recruit and present to the Consistorial Congregation priests who wish to devote themselves to the spiritual care of those who are migrating or have migrated.²⁰ Priests who are approved for the work and appointed missionaries to migrants by rescript of the Consistorial Congregation will be assigned to a mission by the Delegate.²¹

1.1.2.1.3. National Directors of Migration Affairs

The Apostolic Constitution presupposes that every nation has its own National Director for migration. The nomination for this office belongs to the Episcopal Commissions for the spiritual care of migrants with the approval from the Holy See through the Consistorial Congregation and the directors serve as the Secretaries of these commissions.²² But the Constitution says nothing about the functions of the National Director except his membership in the Supreme Council on Migration. However, we can say that he is the spokesman of this Commission.

1.1.2.1.4. Directors of Missionaries to Migrants

This office is distinct from the National Director of Emigration. The Apostolic Constitution treats this new office in a detailed manner in the third chapter of the second title.²³ But, according to the Apostolic Constitution, Directors of the Missionaries will carry on their work under the direction of the Consistorial Congregation and its Delegate for Mi-

¹⁷ *Exsul Familia*, n. 10; DSS, nn. 1171, 1172.

¹⁸ *Exsul Familia*, n. 11; DSS, nn. 1173, 1174.

¹⁹ *Exsul Familia*, n. 16; DSS, n. 1180.

²⁰ *Exsul Familia*, n. 12; DSS, n. 1175.

²¹ *Exsul Familia*, n. 13 §1; DSS, n. 1176.

²² *Exsul Familia*, n. 6 §1; DSS, n. 1160.

²³ *Exsul Familia*, Caput III, nn. 18-23; DSS, nn. 1183-1195.

gration Affairs.²⁴ However, the Consistorial Congregation may, if it chooses, control and watch over the Directors through the local Ordinary.²⁵ It has also the right and duty to treat with the bishops of the nation or territory in which the missionaries are stably fixed, with respect to all those factors that concern the spiritual good of the immigrants of their nationality or language.²⁶ It is the duty of the Director to see that the missionaries observe the decrees of the Consistorial Congregation and of their local Ordinary.²⁷ It is also clearly stated in the Constitution that the Directors, by virtue of their offices have no jurisdiction either territorial or personal except those stipulated in the same Apostolic Constitution.²⁸ In fact, the Apostolic Constitution sometimes gives the Director some functions that normally belong to the local Ordinary so that he may be able to have a better control of missionaries in his care. For example, it is with the permission of the Director that missionaries take their annual holiday.²⁹

1.1.2.1.5. The Missionary for Migrants

This is one of the ecclesiastical offices which continued up to the 1983 Code of Canon Law. The norms that pertain to the missionaries come under the chapter four of the normative section of the constitution. Generally, the missionaries are the priest-volunteers, secular or religious, who now desire to dedicate themselves at the disposition of the Holy See for the apostolate among the migrants of their own nationality or language.³⁰ They are selected by the Consistorial Congregation and prepared under the care of the same Congregation. Consequently, after the approval of the application of such priests the Consistorial Congregation has the right to appoint and to issue the rescript for a period of time which is determined by the rescript itself; similarly, to assign the priests' destination, to transfer them, to accept their resignation and, in a proper

²⁴ *Exsul Familia*, n.18 §1; DSS, n. 1183.

²⁵ *Exsul Familia*, caput I, n.5 §1,4; DSS, n. 1157.

²⁶ *Exsul Familia*, n.20 §1; DSS, n. 1186.

²⁷ *Exsul Familia*, n. 21 §1,2; DSS, n. 1189.

²⁸ *Exsul Familia*, n.19; DSS, n. 1185.

²⁹ *Exsul Familia*, n. 31; DSS, n.1210.

³⁰ *Exsul Familia*, caput I, n.5 §1, 1; DSS, n. 1154.

case, to dismiss them. In addition, after the rescript is granted, their appointment is communicated officially to both Ordinaries, the Ordinary from whom and the Ordinary to whom the priest is going.³¹

The role of the missionary for migrants is a personal one³², namely to exercise the care of souls whether they are aliens or migrants, or of the same language or nation. They are to be considered equal to a pastor, possessing the same faculties for the spiritual care and are bound the same obligations and held to the requirements of the Common Law.³³ This same authority is cumulative on equal terms with that of the pastor of the place.³⁴ Exhorting the local Ordinaries, the Constitution says that wherever possible, every missionary of migrants, in as far as possible, should have assigned to him a church, chapel, or public or semi-public oratory for the exercise of the sacred ministry. Otherwise, the Ordinary of the place shall set up regulations to enable the missionary to migrants freely and completely to fulfill his duties in another church, not excluding the parish church.³⁵ The missionaries to migrants are, while in this work, completely subject to the jurisdiction of the local Ordinary, both with respect to the exercise of the sacred ministry and with respect to discipline, excluding every privilege of exemption.³⁶

With regard to the right of migrants to seek pastoral assistance, the Constitution says that for receiving the sacraments, including marriage, every alien, whether canonical quasi-domicile or without canonical domicile, is free to approach the missionary of a migrant of his own language or to a pastor of the place.³⁷

1.1.2.2. Ecclesiastical Structures

There are two main ecclesiastical structures which the Apostolic Constitution provides for the pastoral care of migrants. They are personal parishes and the *Missio cum Cura Animarum*.

³¹ *Exsul Familia*, n. 5 §2,1; DSS, n.1158.

³² *Exsul Familia*, n.36 §1; DSS, n.1216.

³³ *Exsul Familia*, n. 35 §1; DSS, n.1214.

³⁴ *Exsul Familia*, n. 36 §2; DSS, n. 1217.

³⁵ *Exsul Familia*, n. 37 §1 and §2; DSS, nn.1218-1219.

³⁶ *Exsul Familia*, n. 38; DSS, n. 1220.

³⁷ *Exsul Familia*, n. 39; DSS, n. 1221.

1.1.2.2.1. Personal Parishes

From the past experiences, the Constitution again wants to introduce personal parishes in the daily activities of the pastoral care of migrants. Referring to past successes in the pastoral field of migration, the first part of the Constitution says:

This experience proves that the sacred ministry can be carried out more effectively among strangers and pilgrims if it is exercised by priests of their own nationality, or at least who speak their language. This is especially true in the case of the uneducated or those who are poorly instructed in Catechism.³⁸

Dealing with personal and national parishes, the document continues:

Such parishes, most frequently requested by the emigrants themselves, were a source of great benefit both to dioceses and to souls. Everyone recognizes this and respects it with due esteem. And as Holy See gradually gave its approval, numerous national parishes were established, especially in America and later in the Philippine Islands.³⁹

As a norm, the Constitution exhorts the local Ordinaries that, whenever the ministry of migrants seems for one reason or another inexpedient, they should apply to the Consistorial Congregation for permission to establish parishes for various languages or nationality groups.⁴⁰ Thus the main element that distinguishes a personal parish from a territorial parish is that of language and nationality. Besides, these parishes are referred to as non-territorial parishes, because the principle that determines their existence is not territorial.⁴¹

³⁸ *Exsul Familia*, p. 653; Cfr. V. De PAOLIS, "The Pastoral Care of Migrants in the Teaching and in the Directives of the Church", art. cit., p. 119; G. TESSAROLO, *The Church's Magna Charta*, op. cit., p. 27.

³⁹ *Exsul Familia*, p. 653; can. 216 §4 of CIC 1917.

⁴⁰ *Exsul Familia*, n. 32; DSS, n.1211.

⁴¹ Canon 216 §4 of 1917 Code of Canon Law foresees the special apostolic indult for the erection of personal parishes. After the erection, such parishes remains without territorial limits. Therefore, we can say that such parishes are without territorial limits, having pastor and church and a definite population determined by personal qualities alone without respect to territory. In our case, for example, the people of a certain rite, language, culture, etc.

1.1.2.2.2. *Missio Cum Cura Animarum*

It is the new invention of the Apostolic Constitution for the spiritual assistance of migrants. Normally this extraordinary pastoral care is used when the establishment of personal parishes is impossible, especially if the migrants are seasonal workers. The Constitution states that every local Ordinary is to make an earnest effort to entrust the spiritual care of aliens or migrants to priests, whether secular or regular, of the same language or nationality, to missionaries to migrants. It is the duty of the local Ordinary to erect such missions but he requires special license from the Consistorial Congregation.⁴²

The *Missio Cum Cura Animarum* is an initial step towards full canonical recognition of a personal parish. However, until the erection of personal parishes this is to be attached to a church, chapel, public or semi-public oratory. Normally missionaries are appointed with all power in exercising the *Missio Cum Cura Animarum*.⁴³

Even if the Apostolic Constitution *Exsul Familia* is no longer in force today from a legislative point of view, it certainly provides a point of reference for those who are interested in Church legislation involving pastoral care of migrants. But, when we analyse the innovative principles of this Magna Charta, it is equally proper to discuss its limitations regarding the migratory phenomenon. The innovative principles of the Apostolic Constitution are praiseworthy and very significant; however, knowingly or unknowingly, it failed to analyse the phenomenon of the people on the move because of its overemphasis on pastoral concern for the migrants. The document is preoccupied with rules and regulations in view of the departure of the missionary, but it failed to emphasis any measures in the field of the missionary's preparation. Besides, the document treats all missionaries in the same manner without any distinction between diocesan and religious priests. The particular roles of the religious, both men and women, and laity were completely forgotten in the normative part. Centralization in the Consistorial Congregation in some ways limits the responsibility of bishops in the individual dioceses and

⁴² *Exsul Familia*, n. 33; DSS, n.1212.

⁴³ *Exsul Familia*, n. 35 §1; DSS, n. 1214.

above all the competence of the Oriental Congregation for Oriental faithful. The presupposition of integration into the new society after the second generation is the greatest limitation, since this integration requires more time because all persons feel accepted in the new society just as they are, without any loss of their own culture and spiritual patrimony.⁴⁴

Observation

The Constitution *Exsul Familia* also failed to scrutinize every aspect of the needs of the Universal Church. We can say it completely excluded the problems of the Oriental Rite migrants except that there is some mention of the competence of the Congregation of the Oriental Church. Like the Latin Rite migrants, the special culture and spiritual patrimony of the Oriental Rite migrants cannot be limited to the second generation, especially those in predominantly Latin Rite territories. "Today the Church has a great responsibility to help migrants and exiles cope with the dislocation that comes with life in a new land as the prophets did for the people of ancient Israel. The Church ought to do what is necessary to help the migrants and other groups and resist the type of assimilation that eradicates their unique cultural identity, for it was from within their native culture that today's migrants--like those of ancient Israel--came to encounter God."⁴⁵

1.2. The 1917 Code of Canon Law

In order to see the various sources of the 1983 Code of Canon Law, especially regarding the pastoral care of migrants, first of all we must go back to the 1917 Code. Actually the 1917 Code of Canon Law provides a small reference. The most important source regarding the pastoral care of migrants is found in can. 216 §4, which allows the creation of personal parishes in the particular circumstance with apostolic indult. It reads as follows:

Non possunt sine speciali apostolico indulto constitui paroeciae pro diversitate sermonis, seu nationis fidelium in eadem civitate vel territorio degentium, nec

⁴⁴ V. DE PAOLIS, "The Pastoral Care of Migrants....", art. cit., pp. 121-122.

⁴⁵ LESLIE J. HOPPE, "Israel Experiences Exile", in *Today's Immigrants and Refugees: A Christian Understanding*, Washington, 1988, p. 38.

paroeciae mere familiares aut personales; ad constitutas autem quod attinet, nihil innovandum, inconsulta Apostolica Sede.

In the constitution of parishes, territory is used as the exclusive criterion. This principle, affirmed in the same canon in §4, states:

Territorium cuius libet diocesis dividatur in distinctas partes territoriales, unicuique autem parti sua peculiaris ecclesia cum populo determinato est assignanda, suusque peculiaris rector, tamquam proprius eiusdem pastor, est praeficiendus pro necessaria animarum cura.

Actually, it deals with the concept of parishes and quasi-parishes with distinct territorial limits and a distinct part of population, their own proper church, and their own proper rector or pastor. These three elements are fully realized in a perfectly organized territorial parish or quasi-parish. The fourth paragraph of the canon, however, supposes the existence of some parishes that are not purely territorial. Therefore, a personal parish is one without territorial limits, having its pastor and its church and a definite population determined by personal qualities alone without respect to territory.⁴⁶

Two additional canons in the 1917 Code of Canon Law dealt with the pastoral care, least important in our case, of maritime personnel in can. 883⁴⁷ and of military chaplains in can. 451 §3.⁴⁸ For ship's chaplain the canon gives particular faculties to hear confessions and absolve even the sins reserved to the local Ordinary.

⁴⁶ Cfr. L. BOUSCAREN, A.C. ELLIS, F.N KORTH, *Canon Law: A Text and Commentary*, Milwaukee, 1963, pp. 153-155.

⁴⁷ Can. 883 §1 of 1917: Sacerdotes omnes maritimum iter arripientes, dummodo vel a proprio Ordinario, vel ab Ordinario portus in quo navim conscendunt, vel etiam ab Ordinario cuiusvis portus interiecti per quem in itinere transeunt, facultatem rite acceperint confessiones audiendi, possunt, toto itinere, quorumlibet fidelium secum navigantium confessiones in navi excipere, quamvis navis in itinere transeat vel etiam aliquandiu consistat variis in locis diversorum Ordinariorum iurisdictioni subiectis.

§2: Quoties vero navis in itinere consistat, possunt confessiones excipere tum fidelium quo quavis de causa ad navim accedant, tum eorum qui ipsis ad terram obiter appellentibus confiteri petant eosque valide ac licite absolvere etiam a casibus Ordinario loci reservatis.

⁴⁸ CIC 1917 can. 451 §3: Circa militum capellanos sive maiores sive minores, standum peculiaribus Sanctae Sedis praescriptis.

With the help of this study we understand that the 1917 Code of Canon Law had failed to mention the pastoral care of migrants and did not want to insert any new canonical structures against the traditional concept of territoriality. Therefore, we do not get any sources except the narrowly-mentioned concept of personal parish. One may surprisingly ask why the 1917 Code of Canon Law neglected to include even the norms like those given by Fourth Lateran Council:

Since in many places people of different languages live within the same city or diocese, having one faith but different rites and customs, we therefore strictly order bishops of such cities and dioceses to provide suitable men who will do the following in the various rites and languages: celebrate the divine services for them, administer the church's sacraments, and instruct them by word and example.⁴⁹

Perhaps during the time of codification of the 1917 Code of Canon Law, human migration was not as serious and widespread as today.

2. Post-Second Vatican Council Documents

2.1. The Eighth Principle for the Revision of the Code of Canon Law

A major step in the vast work begun by the Second Vatican Council is the revision of the Code of Canon Law. This study was undertaken with the collaboration of theologians and canonists of various schools and nationalities. Besides this, the observations of consultors and episcopal conferences were also invited and due consideration was given to the present condition in which Church moves today. Together with the observations, the bishops expressed their desire for not just a revision or updating of the canons of the existing Code, that is the CIC of 1917, but

⁴⁹ "Quoniam in plerisque partibus intra eandem civitatem atque dioecesim permixti sunt populi diversarum linguarum, habentes sub una fide varios ritus et mores: districte praecipimus, ut Pontifices huiusmodi civitatum sive dioecesum provideant viros idoneos, qui secundum diversitates rituum et linguarum Divina officia illis celebrent, et ecclesiastica sacramenta ministrent, instruendo eos verbo pariter et exemplo." The Fourth Lateran Council, can. IX, in *Mansi*, "Sacrorum Conciliorum nova et amplissima collectio", XXII, Venetiis, 1778, 998; *Exsul Familia*, p. 653; DSS, n. 1043; *Decrees of the Ecumenical Councils*, edited by NORMAN P. TANNER, vol. I, London-Washington, 1990, pp.239-240; G. TESSAROLO, pp. 27-28.

for a profound rethinking and an entirely new Code in harmony with the principles of Vatican II and modern realities everywhere. Considering all these teachings and preoccupations of the bishops regarding the present day situation of the faithful, the 1967 Synod of Bishops approved a standard on the Church's territorial organization as principle eight of the guiding principles for the revision of the Code of Canon Law. Among other consideration, we read about the structure of the diocese and of the parish according to the modern realities as follows:

From the document of Vatican II it seems that we can deduce the following principle: the pastoral purpose of a diocese and the good of the entire Catholic Church require clear and definite territorial divisions, so that, regularly, the organic unity of each diocese may be properly safeguarded with regard to persons, offices, and institutions, after the manner of a living body. On the other hand, it seems that because of the exigencies of the apostolate in our day, there are weighty reasons to set up unified jurisdictional units for specific pastoral ministries. These jurisdictional units could exist in an entire nation or region or in a diocese. Examples of such an arrangement already exist in the Church today. They could or should be sanctioned in the Code of Canon Law as special dispositions of the law. Finally, it is urged that the future Code of Canon Law permit such jurisdictional units to be set up not only special Apostolic Indult but also by the competent territorial or regional authority whenever they are required by the pastoral needs of the People of God.

The text concludes as follows:

Territory retains its importance, not indeed as a constitutive element, but as an element determining a specific portion of the people of God, by which this Church is defined and identified. Hence, we could accept it as a rule that a portion of the People of God is determined by the territory in which they live. However, there is nothing to prevent us from adducing other criteria--such as the liturgical rite of the people, their ethnic origin, and the like--for determining a particular community of the faithful.⁵⁰

⁵⁰ Ex documentis conciliaribus videtur deducendum principium: finem pastorem dioeceseos et bonum totius Ecclesiae catholicae claram et congruentem circumscriptionem territorialem exigere, ita ut, ex iure ordinario, uniuscuiusque dioecesis unitas organica in tuto ponatur quoad personas, officia, instituta ad instar corporis apte viventis. Videtur ex alia parte, ob exigentias moderni apostolatus, sive in ambitu alicuius nationis vel regionis sive intra ipsum territorium dioecesanum amplioratione sanciri posse et forsitan debere, saltem ex iure extraordinario in ipso Codice inscripto, unitates iurisdictionales ad peculiarem curam pastorem destinatas, quarum exempla exstant plura in hodierna disciplina. Propugnatur

From this guiding principle we understand that the pastoral purpose of the diocese and the good of the entire Church require clear and definite territorial divisions. But the Council Fathers decided not to include territory as an essential or constitutive element in describing the particular church. For them the constitutive element of a diocese is a part of the People of God or a community of believers,⁵¹ over which the bishop presides as their proper pastor, representing the invisible Lord to the flock entrusted to him and, in co-operation with his presbyters, uniting the individual faithful in and to Christ in such a way that the one, holy, Catholic and Apostolic Church is truly active and present in this particular Church. However, territory is considered as the ordinary criterion or means for identifying a portion of the People of God. Finally, the last part of the guiding principle reminds and exhorts all the pastors of the Universal Church to take into consideration shifting pastoral needs in a rapidly changing world and urges them to adopt other criteria for forming dioceses such, for example, rite, nationality, language, etc.

It should also be pointed out that among the sources quoted in support of this canon, we have the Pastoral Directory of Bishops, that is, *Directorium de pastorali ministerio Episcoporum*⁵², *Ecclesiae Sanctae*⁵³ and the Instruction *De Pastoralis Migratorum Cura*. It seems strange that these specific documents have not been quoted among the sources of this canon. The Pastoral Directory of Bishops was published by the Congregation of Bishops on 22 February 1973, *Ecclesiae Sanctae*

tandem futurum Codicem unitates iurisdictionales de quibus dictum est permittere posse non solum ex speciali apostolico indulto, sed etiam quae a competenti auctoritate territorii vel regionis constitutae fuerint secundum exigentias vel necessitates curae pastoralis Populi Dei. Quare, tamquam regula haberi potest hanc portionem Populi Dei determinari territorio, sed nihil impedit quominus, ubi utilitas id suadeat, aliae rationes, uti fidelium ritus vel natio, etc., insimul saltem cum territorio, tamquam criteria communitatis fidelium determinantia admitti possint." *Communicationes* 2 (1969) 84; For the English translation cfr. AA. VV., *Readings, Cases, Materials in Canon Law: A Text Book for Ministerial Students*, edited by JORDAN HITE & DANIEL J. WARD, Collegeville, 1990, p. 91.

⁵¹ MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church", art. cit., p. 230.

⁵² Sacra Congregatio pro Episcopis, *Directorium Ecclesiae imago de pastorali ministerio episcoporum*, 22 Februarii 1973, Polyglottis Vaticanis 1973 in *Leges Ecclesiae Post Codicem Iuris Canonicae*, Editae OCHOA, X., vol. V, 1973-1978, cols. 6462-6539.

⁵³ PAULUS VI, Apostolic Letter *Motu Proprio*, *Ecclesiae sanctae*, datae quibus normae ad quaedam exsequenda concilii Vaticani II decreta statuuntur, (6 augusti 1966), AAS 58 (1966) 757-787.

in 1966, and the Instruction *De Pastoralis Migratorum Cura* in 1969. Speaking to the principle of territoriality of the diocese, the Pastoral Directory of the Bishops affirms:

From the very definition of diocese obtained from the Second Vatican Council, it becomes clear that a ritual or personal particular church can exist, i.e., which embraces a particular group of persons (soldiers, immigrants, etc.) or adhering to a particular rite, to which the name of diocese or also of personal prelatures is conferred. Generally the territorial extension of the particular church must have well defined limits.⁵⁴

In the same manner, the Directory also provides the possibility of the establishment of personal parishes in view of the salvation of souls:

Nevertheless, if it is necessary for the good of souls, personal parishes are to be established, that is to say, formed not on the basis of a particular territory, but determined by the sociological homogeneity of those who are part of it (for example, immigrants of another nationality or speaking another language, etc.); in these cases careful provisions for the validity of the ecclesiastic procedures should be made. The same can be said regarding the ritual parishes.⁵⁵

At the conclusion of the Second Vatican Council, the government of the Church required the framing of new norms on the basis of the various documents of Vatican II for the harmonious running of the Universal Church. In view of this urgent necessity, Pope Paul VI issued the *motu proprio Ecclesiae Sanctae* until the new Code of Canon Law shall have been promulgated, unless the Holy See should decided otherwise in the meantime.⁵⁶ Explaining the delimitation of diocesan bounda-

⁵⁴ "Ex ipsa dioecesis descriptione, quam ex Concilio Vaticano II deprompsimus, liquet dari posse ecclesiam particularem personalem vel ritualementem, complectentem scilicet particularem coetum sociale (militum, migratorum etc.) vel particularis ritus asseclas, cui nomen dioecesis vel etiam praelaturae confertur. Attamen certi fines territoriales ecclesiae particulari generatim sunt attribuendi, ... (n.172)."

⁵⁵ "Instituti tamen possunt, bono animarum id exposcente, paroeciae personales, id est non e praefinito territorio exstantes, sed ex unitate quadam sociali membrorum suorum (v. g. migratorum alius nationis vel linguae etc.); quibus in casibus accurate actorum ecclesiasticorum validitati caute consulendum est. Idem dicendum est de paroecis ritualibus (n.174)."

⁵⁶ Vatican Council II, The Conciliar and Post Conciliar Documents, edited by A. Flannery, vol.I, New York, 1988, p. 592.

ries, *Ecclesiae Sanctae* calls all bishops to take into account in establishing the territory of a diocese those areas where the faithful of the same rite live together. The article 12 §2 of the motu proprio reads as follows:

It is desirable, however, that in the case of the Eastern Churches in defining the limits of eparchs, account to be taken of the greater propinquity of those places where the faithful of the same rite live together.⁵⁷

2.2. The Motu Proprio *Pastoralis Migratorum Cura*

This motu proprio,⁵⁸ dated 15 August 1969, is the fruit of Vatican II in which Pope Paul VI intended to carry out the Conciliar Directives with appropriate review of the existent pastoral norms regarding the care of migrants. Generally the motu proprio has legislative character and is directed to the Church at large. It does not provide norms itself, but it entrusts to the Sacred Congregation for Bishops the task of issuing the new norms by means of an Instruction. Therefore, only two passages from the motu proprio are set out here for our special attention. They are:

i. It is easy to understand that this pastoral care cannot be effectively exercised unless a proper evaluation is had of the spiritual heritage as well as the mental outlook which characterize emigrants. In this regard, one's native tongue is of great importance since it is by means of it that the emigrants express their thoughts, their mental attitude and their religious life.

ii. It was necessary, therefore, that the Apostolic See should make its own this solicitude of the Ecumenical Council and should afford the bishops and the episcopal conferences the opportunity to make better provision for the spiritual care of these migrant groups who, to be sure, are not only entrusted to their pastoral ministry as are the rest of the faithful, but also, because of the peculiar situation of their life, requires sedulousness corresponding to their needs.

On the other hand "the considerably changed conditions, which the migratory phenomenon presents today, have made the necessity ever

⁵⁷ Article 12 §2. "Pro Ecclesiis Orientalibus vero optandum est ut, in definiendis eparchiarum circumscriptionibus, ratio quoque habeatur maioris propinquitatis illorum locorum, in quibus fideles eiusdem ritus commorantur."

⁵⁸ PAUL VI, Motu proprio *Pastoralis Migratorum Cura*, AAS 61 (1969) 601-603, DSS, nn.1971-1978.

more urgent to review the norms previously issued by the Apostolic See as regards this sector, adapting them and bringing them up-to-date in accordance with the new circumstances. That is to say it is necessary to renew and improve the organization and the structure of the pastoral care of migrants...".⁵⁹

2.3. The Instruction *De Pastoralis Migratorum Cura*

The Instruction *De Pastoralis Migratorum Cura*⁶⁰ was published by the Sacred Congregation for Bishops on 22 August 1969 and become effective from 1 October 1969. The main purpose of the Instruction was "to initiate an organization for the spiritual care of migrants such as to guarantee the person arriving in a foreign country, even temporarily, the same religious services he could avail himself of in his own country."⁶¹

According to the Instruction *Migrants* are "all those who, for whatever reason, are living outside their homeland or their own ethnic community and because of real needs require special care" (n.15). Therefore the document recalls the fundamental principles in the social, economic and political field on which emigration should be based, according to the doctrine of human rights. As to these fundamental principles, the document continues by upholding man's right to have a country of his own, his right to migrate according to the needs of the universal and national common good, his right to work and the duty of the public authorities to create sources of employment, the duties of migrants towards the community that receives them, and their equal right to preserve their own spiritual, linguistic and cultural heritage, as well as the mission of the people of God as a Whole.

The Instruction *De Pastoralis Migratorum Cura* is composed of seven chapters, of which the first chapter contains the general principles;

⁵⁹ AAS 61 (1968) 601-603. Cfr. JAMES I. O'CONNOR, "Canon 248, New Norms on the Pastoral Care of Emigrants," in *The Canon Law Digest*, vol. VII, Chicago, 1968-1972, pp. 189-190.

⁶⁰ Sacra Congregatio pro Episcopis, Instruction *De Pastoralis Migratorum Cura*, AAS 61 (1969) 614-643, (henceforth PMC); DSS, nn. 1979-2135.

⁶¹ SILVANO M. TOMASI, "Pastoral and Canonical Innovations of Pastoralis Migratorum Cura", in *The Jurist* 31 (1971) 333-334.

other chapters present the competency of the Sacred Congregation for Bishops on the level of the Universal Church, the responsibilities of the National Episcopal Conferences on the national level, the responsibilities of the local Ordinaries both of the place of departure and of the place of arrival on the diocesan level, the part of the chaplains or missionaries of migrants and suitable preparation for this field of work, the role of the men and women religious, and finally the participation of the laity. Thus, touching all aspects of the migratory phenomenon, the Instruction is presented in relation to the unity of the human family, its dangers and difficulties, and the harm inherent in the religious life of migrants. In this way, the basic principles of *Exsul Familia* are again taken up, developed and opened to the new requirements underlined by the Council.⁶²

2.3.1. The Instruction *De Pastoralis Migratorum Cura* and its Relevance

It is worth remembering that the Instruction *De Pastoralis Migratorum Cura* remains, even today, as the principal document⁶³ for the spiritual care of migrants. So it would be helpful to note its main points which are equally applicable everywhere in the Universal Church for all groups of people without distinction or reservation for any group, since there is a fundamental equality among all the baptized, who all are fully members of the People of God. This fundamental equality of the baptized is described by the Vatican Council as follows:

As members, they share a common dignity from their rebirth in Christ, they have the same filial grace and the same vocation to perfection. They possess in common one salvation, one hope and one undivided charity (LG n.32).

2.3.2. The Right to Preserve One's Native Language and Spiritual Heritage

The concern of the Church for the right of migrants to preserve their native language and spiritual heritage including their culture in their new

⁶² Cfr. V. DE PAOLIS, "The Pastoral Care of Migrants...", art. cit., pp. 17-128.

⁶³ Cf. JOHN PAUL II, *Allocutio Sacros Praesules Ritus Malabarici et Malankarensis Occasione Visitationis "Ad Limina" in Arce Gandulfi Coram Admissos: de Liturgica Renovatione*, in DSS n.2662; V. DE PAOLIS, "The Pastoral Care of Migrants ...", art. cit., p. 130; La Chiesa e mobilità umana, in *On the Move* 20 (1978) 40.

country of residence is clear in the various teachings of the Church. For effective pastoral care we must have regard for all these elements of the migrants. Stressing this aspect, Pope Paul VI wrote: "Now, it is easy to understand that it is not possible to fulfill effectively this pastoral care if the spiritual patrimony is not taken into due account".⁶⁴ This is true for the following reasons:

- Migrants bring along with them their mental attitudes, their language, their culture, and their religion. All these constitute a kind of heritage of opinion, tradition and culture which will continue outside the homeland. This heritage should be highly esteemed everywhere.

The last place of consideration is not claimed for the mother tongue of migrants which is the instrument for bringing out their mental attitude, their thought and cultural patterns and the program of their spiritual life (GS n.29).

Since all these are the natural means and road to opening up and understanding a man's innermost self, the care of migrants will certainly bear richer fruit if it is ministered by persons who have good knowledge of all these matters (for example: the mentality, thoughts, cultural and spiritual life) and who have in a rather full sense a correct knowledge of the migrant's language. As a result, it is evident and hereby confirmed as appropriate that care of migrants be exercised by priests of the same language and that for all the time which unity requires (n 11).⁶⁵

Faithful to the teachings of Vatican II, above all, to the Constitution of *Gaudium et Spes* and to the Decrees *Orientalium Ecclesiarum* and *Christus Dominus*, the Instruction thus stresses the need for adequate pastoral care for the migrants by means of their own language, culture, and rite, in order to preserve their spiritual and cultural heritage. From pastoral experience, Mons. Wladyslaw Rubin says: "The specific pastoral care of the migrant is essential because he lives in an entirely different way than the local population. Sometimes he may be fluent in the local language, but his mentality and his whole psychological makeup remain completely different."⁶⁶ Another notable point related to the previous

⁶⁴ PAUL VI, Motu Proprio, *Pastoralis Migratorum Cura*, p. 601.

⁶⁵ *Exsul Familia*, Tit. II, chapter 1, n.5 §1,1; chapter IV, nn.33-34,39.

⁶⁶ WLADYSLAW RUBIN, "Rapporti tra missionario e chiesa locale di immigrazione", in *On The Move* 26 (1979) 77.

constitution is that the Instruction follows the same path of *Exsul Familia* to avoid the tendency of nationalistic misinterpretation regarding usage of the words.⁶⁷

2.3.3. The Juridical Structures for the Pastoral Care of Migrants in the Instruction *De Pastoralis Migratorum Cura*

2.3.3.1. At the Universal Level

The Sacred Congregation for Bishops is given competence for all spiritual assistance of migrant faithful of the Latin Rite, no matter where they migrate. The norms regarding this spiritual assistance are dealt in the second chapter of the Instruction. But with regard to the competence of the pastoral care of migrants both Latin and Oriental, the Instruction states as follows:

It belongs to the Sacred Congregation for Bishops to regulate, provide, coordinate and promote everything which pertains to the spiritual welfare of Latin rite members of the faithful, no matter where they migrate, after, however, consulting the Sacred Congregation for the Oriental Churches or the Sacred Congregation for the Evangelization of Nations if there is question of territories subject to either of them and, likewise, without prejudice to the responsibilities and authority of the local Ordinaries in those matters which concern the care of souls (CD, n.18)

Furthermore, it is the function of the Sacred Congregation for Bishops to concern itself with the same things for the benefit of immigrants of the Oriental Rites--again in consultation with the Sacred Congregation for the Oriental Churches--whenever faithful of the individual Oriental Rites move to places which are not subject to the latter Sacred Congregation and where there is no priest of their own rite.⁶⁸

⁶⁷ A misunderstanding existed in the expression '*nationalities*', which could easily be misunderstood in the political sense of national minorities. So the Constitution *Exsul Familia* speaks very carefully using the words "sermo, lingua, natio" for speaking different languages or nations. The Instruction also prefers to follow this same path. Cfr. C. HENKEY-HONIG, "The Care of Migrants", in *The Church's Magna Charta for Migrants*, op. cit., 264, 267; V. DE PAOLIS, "La cura dei migranti secondo il Motu Proprio "Pastoralis Migratorum Cura" e l'Istruzione "De Pastoralis Migratorum Cura", in: AA.VV., *Per Una Pastorale Dei Migranti. Contributi in occasione del 75th della morte di Mons. G.B. Scalabrini*, Roma 1980, p. 166.

⁶⁸ PMC n. 16 §1 and §2.

Following the norms of the motu proprio *Ecclesiae sanctae*⁶⁹, the Instruction has also given competence to the Sacred Congregation of Bishops, after having heard the bishop's conferences which are involved in the migratory phenomenon, to erect Prelatures for the spiritual care of some social groups that are large in number.⁷⁰ For accomplishing all things regarding migration, the Instruction retains the Supreme Council for Migration from *Exsul Familia* as an auxiliary Office in the Sacred Congregation of Bishops.⁷¹ The competency of this office is, "to study and occupy itself with those things which promote particularly the spiritual growth of the emigrant faithful from every tongue, race, nation, and--with the proper reservations--rite; to prepare meetings of the Council; to foster mutual relations with Episcopal Conferences, and to open and carry on dialogue with international associations".⁷²

2.3.3.2. At the National Level

The role of the National Episcopal Conference and its various organs is highlighted in the third chapter of the Instruction. At this level above all vigorous action is to be taken to meet the spiritual needs of migrants. Relevant passages from Council documents, especially the decree on *Christus Dominus* n. 18, are mentioned, and the national hierarchies exhorted to take appropriate action to aid migrants.

The Instruction *De Pastoralis Migratorum Cura* indicates that the National Episcopal Conference has wide latitude in organising spiritual aid to migrants. In nations where the number of migrating people is small in number, it sees as adequate the designation of an Episcopal Promoter by the Episcopal Conference to look after their spiritual care. Likewise, in nations where migrants are in great number, it envisages the establishment of an Episcopal Commission for Migration.⁷³ The secretary of this Commission will normally be the National Director.⁷⁴ On the basis of

⁶⁹ PAUL VI, Motu Proprio *Ecclesiae Sanctae*, AAS 58 (1966) 757-787 (henceforth, *Ecclesiae Sanctae*).

⁷⁰ PMC n. 3.

⁷¹ PMC n. 17.

⁷² PMC n. 18 §2.

⁷³ PMC n.22 §1 and §3.

⁷⁴ Cfr. footnotes 34 and 40 of PMC.

Council Decrees, *Christus Dominus* n.42 and *Ad Gentes* n.38, it also exhorts the Episcopal Conferences to create certain offices for the service of migrants, and to find and promote projects for providing brotherly welcome and due pastoral care for those who migrate from mission territories. Co-operation with missionary bishops and the bishops of established Christian countries is also foreseen in this section in order to assist these migrants properly.⁷⁵ In a similar way, in nations where there are many chaplains or missionaries for migrants, the Instruction instructs to constitute a *Delegate for Chaplains or Missionaries*⁷⁶ as in the Directors of Missionaries to migrants in the Apostolic Constitution *Exsul Familia*. The exact details as to how the work of such delegates is supervised are not determined in the Instruction. There are several indications that they are subject to the National Director,⁷⁷ and it is clear that they are subject to the National Episcopal Conference.⁷⁸

Understanding the necessity of the experts in the field of migratory movements, the Instruction again exhorts the Episcopal conferences to set up, if possible, an educational institution for priests in order to train them for this particular ministry.⁷⁹

2.3.3.3. At the Diocesan Level

Faithful to the teachings of conciliar and post-conciliar decrees of the Second Vatican Council, especially on the basis of the decrees of *Christus Dominus* and *Ecclesiae sanctae*⁸⁰, the introductory part of the fourth chapter exhorts every local Ordinary to use all means possible to provide spiritual assistance for every kind of alien people. For this purpose the instruction makes a division to show the various responsibilities incumbent on the Ordinaries of *a quo* and *ad quem*.

⁷⁵ DSS n. 2029-2030.

⁷⁶ PMC nn. 44-51.

⁷⁷ PMC nn. 23; 37 §3; 51.

⁷⁸ PMC nn.22 §3; 36 §2; 50 and 51.

⁷⁹ PMC n. 23 §2 and §3.

⁸⁰ CD n.18 and n.23; *Ecclesiae Sanctae* I, n.14 §2.

2.3.3.3.1. The Ordinaries of the Place of Departure or *A Quo*

The responsibilities of the Ordinaries *a quo* are, if it seems necessary or useful, to establish a special Office for Emigrants in the diocesan curia⁸¹ and to find out and recognize suitable priests both diocesan and religious for this difficult ministry and willingly assign them for the service of Episcopal Conferences.⁸² Finally, the Instruction exhorts every Ordinary to set up contacts with the National Episcopal Conferences or with its organs to obtain help for his diocese and vice versa.⁸³

2.3.3.3.2. The Ordinaries of the Places to Which Migrants Come or *Ad Quem*

The Church *ad quem* is always the principal holder of pastoral responsibility towards the migrant and it is up to this Church to carry out the specific pastoral care required for migrants.⁸⁴ Really the Church *ad quem* is the real custodian of the pastoral care of migrants and has the real responsibility to set up various juridical structures in favour of migrants.

Therefore, the Instruction exhorts the Ordinaries of *ad quem* to establish a particular office for migrants at the Episcopal Curia and to appoint a *Vicar Episcopal* or other suitable priests in charge of this office.⁸⁵ It also exhorts them to give proper instructions to all Christian faithful in order to receive the immigrants properly and benevolently and to promote ecumenism.⁸⁶ As a warning the Instruction says to the pastors:

The spiritual care of all the faithful particularly the migrants, falls most especially on the shoulders of the pastors of the parishes within which they live. These shall one day give an account to God regarding the fulfillment of their duty. Let them bear this heavy burden in association and union with the chaplain or missionary if there is one present.⁸⁷

⁸¹ PMC n.25.

⁸² PMC n.27.

⁸³ PMC n.28.

⁸⁴ Cfr. EMANUELE CLARIZIO, "Migration moderne et mise a jour pastorale," in *Migrazione e Turismo* 7 (1979) 91.

⁸⁵ PMC n.29 and *Ecclesiae Sanctae* I, n.14 §2.

⁸⁶ PMC n. 30 §1 and §2.

⁸⁷ PMC n.30 §3.

2.3.3.4. At the Parish Level

We have seen that the prime responsibility regarding the pastoral care of the migrants depends on the Ordinaries of *ad quem*. Therefore, the Instruction follows the same line as *Exsul Familia* and recommends the Ordinaries *ad quem* to provide necessary structures on the parish level to assist them in carrying out the pastoral ministry according to the necessity of the migrant faithful. Let us consider in a brief manner the various structures provided by the Instruction. They are:

- i. *Erection of Personal Parishes*: "Where there is a great number of migrants who use the same language and who take up permanent residence or constantly change, it can be opportune that the erection of a personal parish should be duly determined" (nn.33 §1, 38).
- ii. *A Missionary with the Care of Souls*: Here the bishops can entrust the care of souls of migrants to a missionary "in those places especially where migrants are not yet permanently established. The mission of this kind pertains to particular groups of persons who are staying there for many reasons for some period of time" (n.33 §2).⁸⁸ This mission is always similar and equal to the parish in all matters of migrants (n.38).
- iii. *A Mission with the Care of Souls within the Boundaries of a Territorial Parish or Mixed Parish* "which has been erected within the boundaries of one or several parishes can be annexed to a territorial parish especially if such parish is administered by the members of the same religious congregation which renders spiritual care of the migrants" (n.33 §3).
- iv. *Chaplain or Missionary of the Same Language*: If the above mentioned possibilities do not seem fitting "the spiritual care of migrants should be provided by a chaplain or missionary of the same language with a defined territory for the exercise of his ministry" (nn.33 §4, 39 §1, §3).
- v. *Assistant Pastor for the Chaplain or Missionary*: "Where there is a sufficiently large number of migrants, for the better provision of the spiritual care,

⁸⁸ In a declaration given by the Sacred Consistorial Congregation on 21 November, 1966: "A diocesan bishop in his diocese can, on his own authority, set up not only a personal parish but also a mission with the care of souls for faithful of a different language or nationality, provided that the territory of the said mission be clearly and suitably defined and that the care of the immigrant faithful be committed to a missionary for immigrants of their own language." Cfr. the footnote 53 of the Instruction *De Pastoralis Migratorum Cura*.

a chaplain or missionary can be constituted an assistant pastor (*vicarius cooperator*) of one or several parishes" (33 §5).

vi. *Spiritual Assistance for the Eastern Catholics*: "Provision must be made for the spiritual care of migrants who belong to the different sacred rites (*diversus in sacris est ritus*), regard must be taken of the decrees which pertain to them, but without prejudice to the rights of their hierarchy (n.31 §3).

Several faculties or recommendations regarding migrants deserve mention. Local ordinaries are not to refuse to admit the use of the migrants's own language in the liturgy, no matter from what country they come.⁸⁹ Wherever possible, centres should be set up to which migrants have access as their own, so that they may cultivate the goods and values of their own culture, enjoy merited quiet and relaxation and find healthy support.⁹⁰

2.3.4. Religious and Lay People

Special new chapters⁹¹ have been added regarding the work of men and women religious and the participation of the laity in the pastoral care of migrants. Conscious of their role in the Universal Church, the Instruction exhorts the Episcopal Conferences and Diocesan Offices to make use of the services of religious and lay people in this particular and difficult pastoral work on all levels.

Therefore, from the pastoral and juridical point of view the Instruction *De Pastoralis Migratorum Cura* presents various structures for national, diocesan and parochial levels. The structures of the diocesan and parochial level are very useful even today for the apostolates of migrant faithful: the Episcopal Vicar, Personal and Mixed Parishes, Mission with Care of Souls, the Missionary for Migrants.

Observation

To a certain extent, the Instruction surpasses the limits faced by the Apostolic Constitution *Exsul Familia*. The necessity of the updating of the Instruction was raised even in the World Congress for the Spiritual

⁸⁹ PMC n.32.

⁹⁰ PMC n.34 §3.

⁹¹ Cfr. Chapter VI and chapter VII of PMC.

Care of Emigration.⁹² As did *Exsul Familia*, the Instruction tried to give more emphasis to the Catholic migrants, although it concerns only the Faithful of the Latin Rite. How can it fit into the framework of modern human mobility? Prof. V. De Paolis rightly comments: "Many Christians do not belong to the Latin Rite; the phenomenon of people on the move today includes also the *Catholics of the Oriental Rite*, and this is in a proportionately very notable form. Then, the countries to which Catholics go are no longer only those of the Catholic Faith; and for the most part the picture of Christian life has changed enormously in those countries. Finally, we must note that today there is a very notable migratory movement into Christian countries on the part of non-Christians. The Instruction does not say a word about this new phenomenon."⁹³

The encouragement given by Pope John Paul II on 29 August 1980 to the Bishops of Syro-Malabar and Malankara Churches on the basis of *Pastoralis Migratorum Cura* resounds and highlights the importance of these documents in the life of these churches' migrants, too. He said:

I can assure you that there will be rendered accessible to these faithful all the helps which the laws of the Church foresee, particularly by the prescriptions, which you yourselves have cited, of the Decree *Christus Dominus*. It is well known how, after the Council, the Church wished to revise the Apostolic Constitution *Exsul familia*, and my predecessor Paul VI in *Pastoralis Migratorum Cura* did not omit any effort to place every spiritual help at the disposal of emigrants. The common concern of the Bishops of the emigrant's places of origin and the bishops of their new homes requires a harmony of relationships and a spirit of fraternal collaboration. It is my most earnest desire, and my conviction, that the Episcopal Conferences, whether of India or the regional ones, will find a way to develop a just manner of providing for this need.⁹⁴

Another limitation in this regard is the lack of determinations, as De Paolis observes, especially in the matters of the "responsibilities both on the part of the Episcopal Conferences and their structures in relation

⁹² *On The Move*, 26-27 (1979) 162.

⁹³ V. DE PAOLIS, "The Pastoral Care of Migrants ...", art. cit., p. 129.

⁹⁴ JOHN PAUL II, Address to the of Syro-Malabar and Malankara Churches on *Ad limina* visit, AAS 72 (1980) 1029; DSS n.2662.

to the individual Ordinaries, then on the part of the Ordinaries of the place of the migrants' arrival in relation to the Ordinaries of the places of departure. The role of the Institutes of Consecrated Life is not always sufficiently respected."⁹⁵

Later, looking at all these shortcomings, the World Congress for the Spiritual Care of Emigration gave some concrete proposals for the revision of the Instruction, that is, both on the basis of pastoral experience and followingse of the Document *Church and People on the Move*, is as follows:

In any such revision, account should be taken of the role of the Pontifical Commission, established after the Instruction's promulgation. Reference should also be made to the new ministries and particularly to permanent deacons; the function of women religious and lay people should be given greater scope; the status and the role of the delegate, in response to the wish expressed above, should be better defined, and more account taken of internal migrations.⁹⁶

2.4. The Motu Proprio *Apostolicae Caritatis*

With this motu proprio,⁹⁷ Pope Paul VI erected the Pontifical Commission for the Pastoral Care of Migrations and Tourism on 19 March 1970, reorganizing the whole structure of the pastoral care of human mobility which had been formerly assigned to various sectors within the Roman Curia. Paul VI himself expressed the motive of the motu proprio *Apostolicae Caritatis* as follows:

It is to provide better for the spiritual welfare of those who are living far away from their homes, it now seems advisable that these activities should be brought together into a fruitful and effective union and placed under one direction."⁹⁸

⁹⁵ Cfr. V. DE PAOLIS, "The Pastoral Care of Migrants...", art. cit., p. 129,

⁹⁶ On The Move, *Final Document*, 26 (1979) 162.

⁹⁷ PAUL VI, Motu Proprio *Apostolicae Caritatis*, AAS 62 (1970) 193-197.

⁹⁸ "Ad impensius vero procurandam spiritualem salutem eorum, qui procul a sedibus propriis morantur, iam expedire videtur, ut huiusmodi operositates apto, fecundo efficacique nexu inter se copulentur atque uni subiciantur moderationi." Cfr. AAS 62(1970) 195; Cfr. *The Canon Law Digest*, vol. VII, p. 222.

Referring to this Pontifical Commission on 9 January 1982, Pope John Paul II said to the Bishops of the Liguria region:

The Church, always attentive to the constantly changing situation, recognized, right from the time of Vatican Council II, human mobility as one of the phenomena to be pointed out to the Bishops for their reflection (CD n.18); later she instituted the Pontifical Commission for the pastoral care of migrations and tourism.⁹⁹

Although the Commission is juridically subordinated to the Congregation for Bishops, however, it enjoys a considerable degree of autonomy in carrying out its duties.¹⁰⁰ Its specific responsibility is to study the practice of the pastoral care of the "people on the move": "migrants, the Apostleship of the Sea, the Apostleship of the Air, the Apostolate of Nomads, and assistance for tourists whose pastoral care had been assigned to the competence of the Congregation for the Clergy by the Apostolic Constitution *Regimini Ecclesiae Universae*".¹⁰¹

Explaining the works of the Pontifical Commission for the Pastoral Care of Migrations and of Tourism, Pro-President, Archbishop Giovanni Cheli says:

Normally the Commission carries out her activity by means of study, dialogue, co-ordination and developing incentives. She appeals to Bishops, organizations and to the very numerous ecclesial groups which have risen universally with the aim of helping migrants. The Pontifical Commission, however, as the expression of the Church's solicitude for migrants, appeals also to the civil authorities.

⁹⁹ JOHN PAUL II, Allocution *Ad Liguriaie episcopos occasione oblata "ad Limina" visitationis coram admissos*, AAS 74 (1982) 397.

¹⁰⁰ Cfr. Number 2 of the arrangement of the Pontifical Commission, AAS 62 (1970) 196; GIOVANNI CHELI, "The Pontifical Commission's Perspective on the Changing Trends in International Migration and the Church's Social and Pastoral Response" in *Proceedings of the First National Migration Conference June 15 through 18, 1988 Seton Hall University*, Washington, 1989, p. 33; V. DE PAOLIS, "The Pastoral Care of Migrants...", art. cit., p. 133.

¹⁰¹ PAUL VI, *Motu Proprio Apostolicae Caritatis*, AAS 62 (1970) 195; V. DE PAOLIS, "The Pastoral Care of Migrants...", art. cit., p. 133; GIOVANNI CHELI, "The Pontifical Commission's Perspective...", art. cit., pp. 32-33.

The natural partners for dialogue of the Pontifical Commission are those who bear the primary responsibility for the pastoral care of migrants: local Ordinaries. She sends them the directives of the Holy See concerning migration. Particular situations are pointed out and pastoral attitudes are suggested. Sometimes this contact is made directly and other times by means of the Nunciature. In their turn, Bishops and the structures they have set up for the pastoral care of migration inform the Pontifical Commission about the problems facing migrants and initiatives taken in their favour. Important sources for this are the chapters devoted to the pastoral care of human mobility in the quinquennial reports of Bishops, which are conveyed to the commission. She is trying to spread the tradition according to which Bishops, particularly those from areas marked by migration, include a visit to the Commission during their *ad limina* visits to the Holy See. Thus, for example, last year the Bishops of France and from the States of Texas and Oklahoma visited the Commission.¹⁰²

From the above works of the Pontifical Commission we can conclude that it has a special task to fulfill in the entire field of human mobility. Therefore, we trust that the Commission cannot neglect the problems of Oriental Catholic Migrants, including Syro-Malabar Migrants. In the last Plenary Meeting of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People¹⁰³ the participants from the Oriental Churches, especially the Bishops of Syro-Malabar and Malankara Churches, presented their anxieties and preoccupations about their migrants who are residing in other parts of India and in abroad. As a result, one of the documents of this Plenary Meeting reflects as follows:

Assistance should be provided to immigrants of *Eastern Rites* to rediscover and preserve their identity in the place of immigration. At the same time, all assistance should be given to the Christian communities in the Middle East to have their human and religious rights respected and thus avoid that their members be forced to emigrate.

Pastoral structures made available by the Church for the care of migrants and all people on the move, such as personal parishes, missions with care of

¹⁰² GIOVANNI CHELI, "The Pontifical Commission's Perspective...", art. cit., pp. 34-35.

¹⁰³ After the promulgation of the Apostolic Constitution *Pastor Bonus* the Commission was transformed into a Pontifical Council. Now its title is "*Pontificium Consilium de Spirituali Migrantium atque Itinerantium Cura*".

souls, and chaplaincies, should be made known, utilized and, if necessary, updated to meet the new reality of multicultural and multi-religious societies.¹⁰⁴

2.5. The Pontifical Commission's Letter *Church and Human Mobility*

On 4 May 1978, a letter addressed to the Episcopal Conferences in the whole world, entitled *Church and Human Mobility*, was published by the Pontifical Commission for Migrations and Tourism¹⁰⁵ with reference to the pastoral care of migrants. It was not intended to abrogate the documents already in existence, but rather to be an application of those documents according to the concrete situation of today's human mobility. Dealing with other matters, this document offers an up-to-date view of the migratory phenomenon and its pastoral consequences.¹⁰⁶ Speaking of the Church's responsibility in the field of migration and the history in the proclamation of the Gospel, the document clarifies of the Church's purpose:

Her overriding commitment is to the proclamation of the Good News. It is quite true that certain phenomena, such as, for example, emigration, the nomadic and sea-going life, etc. allow of situations where injustice is practiced. These the Church feels deeply, and is convinced that it is her duty to express such feelings in ways compatible with the fullness of her vocation. However, she considers it her specific and primary duty to proclaim unceasingly the 'joyful news', by witness to and explicit proclamation of the Word of God. 'The history of the Church, from the discourse of Peter on the morning of Pentecost onwards, has been intermingled and identified with the history of this proclamation'; in many cases the movement of people has exercised a determining or at least notable influence on the birth and growth of new Churches (n.9)¹⁰⁷.

¹⁰⁴ Pontifical Council for the Pastoral Care of Migrants and Itinerant People, in *Documentation* "Conclusions of the XI Plenary Meeting of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People", in *People on the Move*, Vatican City, 58 (1991) 112.

¹⁰⁵ Pontificia Commissione per la Pastorale delle Migrazioni e del Turismo, Lettera circolare alle Conferenze Episcopale "*Chiesa e Mobilità Umana*", AAS 70 (1978) 357-378; DSS, nn. 2368-2484.

¹⁰⁶ Cfr. V.DE PAOLIS, "The Pastoral Care of Migrants, ...", art. cit., p. 133; GIOVANNI CHELI, "The Pontifical Commission's Perspective,...", art. cit., p. 35.

¹⁰⁷ DSS, n. 2396.

Countries like India have a prominent role to play in the field of *ecumenism* and in dialogue with other groups, particularly with *non-Christians*. The presence of thousands of our migrants urges the different *Ecclesiae sui iuris* in India to make use of them in these areas. As we mentioned earlier, the Syro-Malabar and Malankara Churches have a great role to play towards their sister Churches¹⁰⁸ in the ecumenical field. Unlike the past documents of the Holy See, the Commission's letter opens a new path in this regard. From the ecumenical perspective the document expresses its view as follows:

The phenomenon of people on the move is like a crossroads, at which various Christian creeds and denominations come into contact, sometimes in a permanent fashion. ... The common objective of the Christian religions is to preserve and deepen faith in God the Redeemer aimed the assaults of encroaching secularism. They have a task, also in common: those actions which will lead to full human freedom, and which aim to raise man up, following the spirit and the norms of proper ecumenical collaboration. All this brings to mind the compelling urgency of putting an end to the scandal of the divisions between Christians (n.13)¹⁰⁹.

Speaking about dialogue with the non-Christians, the letter continues:

Dialogue with non-Christians, whom modern travel involves more and more, sometimes in traditionally Catholic areas of the globe, is also to be borne in mind. In her eager concern for the brotherhood of peoples to become ever closer, and with due respect for the genuine values inherent in the different religions, the Church perceives in this phenomenon a new dimension to her missionary outlook and her ministry of salvation (n.14)¹¹⁰.

Another novelty in the Commission's letter is that it develops the theme of the welcome to be offered to migrants by the local Church, and underlines the need for inter-ecclesial collaboration in view of pastoral care without regard to national borders. From past experiences Commission emphasizes the need for collaboration between the departure Church and the arrival Church:

¹⁰⁸ Nuntia 3 (1978) 20.

¹⁰⁹ DSS, nn. 2405-2406.

¹¹⁰ DSS n. 2408.

A territorial entity cannot consider itself an independent unit; it reflects life which did not have its origin there. On the other hand, experience shows that with increasing frequency one and the same local Church is simultaneously a departure Church and arrival Church: while it is affected by the emigration for different reasons of members of its own faithful, at the same time it is affected by immigration due sometimes to the same, sometimes to other causes.

The pastoral care required by people on the move is necessarily a pastoral care, so to speak, without frontiers. The complexity of people's movements makes itself felt at the level of the Churches: suitable instruments can only be found through collaboration and solidarity between the Churches concerned (n.26)¹¹¹.

2.6. The Ap. Const. *Pastor Bonus* and the Pontifical Council for the Pastoral Care of Migrants and Itinerant People

After the promulgation of the Apostolic Constitution *Pastor Bonus*¹¹² the competence regarding the pastoral care of human mobility came under the jurisdiction of two dicasteries of the Roman Curia, the Congregation for the Oriental Churches and the Pontifical Council for the Pastoral Care of Migrants and Itinerant People. They are juridically equal among themselves,¹¹³ but they act in different ways.¹¹⁴ Today these

¹¹¹ DSS nn. 2441-2442.

¹¹² The Apostolic Constitution consists of two major portions. The first is an introductory section in which the Pope sets out the doctrinal principles which form the basis for the curia's existence. In the second part the actual norms for the Roman Curia are set forth. The 193 norms are divided into nine parts: general norms, the Secretariat of State, Congregations, Tribunals, Pontifical Councils, Offices, other Institutes of the Roman Curia, Advocates, and Institutes pertaining to the Holy See. The document also contains two appendices. The first concerns the *ad limina* visits of bishops. The second deals with the question of workers for the Apostolic See. Cfr. JOHN PAUL II, Apostolic Constitution *Pastor Bonus*, AAS 80 (1988) 841-934.

¹¹³ "Dicasteria sunt inter se iuridice paria."; cfr. *Pastor Bonus*, Art. 2 §2.

¹¹⁴ For detailed study cfr. the two articles "La Congregazione per le Chiese Orientali", by M. Brogi and "Il Pontificio Consiglio della Pastorale per i Migranti e gli Itineranti", by J. Beyer, in *La Curia Romana nella Cost. Ap. "Pastor Bonus"*, ed. P.A. Bonnet and C. Gullo, Libreria Editrice Vaticana, Città del Vaticano, 1990; V. DE PAOLIS, "The Communitarian Dimension in the Experience of Faith in a Context of People on the Move", in *People on the Move* 58 (1991) 37-60.

two dicasteries are directly or indirectly involved in the pastoral care of people on the move in the Catholic Church.

In addition, as we know, after the promulgation of the Apostolic Constitution *Pastor Bonus*¹¹⁵, the *Pontificia Commissio de spirituali migratorum atque itinerantium cura* has taken the new title *Pontificium Consilium de spirituali migrantium atque itinerantium cura*¹¹⁶ and has become autonomous.¹¹⁷ Formerly it was juridically subordinated to the Congregation of Bishops according to the motu proprio *Apostolicae Caritatis*¹¹⁸ and the Apostolic Constitution *Regimini Ecclesiae Universae*¹¹⁹. This new constitution has devoted three articles (149-151) especially to explain the competence of this new dicastery.

Regarding the competence of this dicastery, article n.149 of *Pastor Bonus* states:

The Pontifical Council applies the pastoral solicitude of the Church to the particular necessities of those who have been forced to abandon their homeland, or those who have none at all; at the same time, the Council wishes to follow with necessary attention all questions related to this matter.¹²⁰

Commenting article 149, Father Beyer explains the real sense of this article as follows:

This first article turns its attention to 'those who have been forced to leave their homeland or who have none at all.' Thus it refers to migrants, exiles,

¹¹⁵ *Pastor Bonus*, Articles 149-151.

¹¹⁶ According to Prof. V. De Paolis, the term "*Migrants*" includes refugees and exiles and stateless persons; and the term "*Itinerant People*" includes all the other categories, including tourists. After explaining the terms he says, "the new title of the dicastery has room for all the categories of people on the move. However, not all the categories are equally important to this Pontifical Council." Cfr. V. DE PAOLIS, "The Communitarian Dimension in the Experience of Faith in a Context of People on the Move", art. cit., p. 55.

¹¹⁷ J.BEYER, "Il Pontificio Consiglio della Pastorale per i Migranti e gli Itineranti", in *La Curia Romana nella Cost. Ap. <<Pastor Bonus>>*, Città del Vaticano, 1990, p. 459.

¹¹⁸ PAUL VI, Motu proprio *Apostolicae Caritatis*, AAS 62 (1970) 195-197.

¹¹⁹ PAUL VI, Apostolic Constitution *Regimini Ecclesiae Universae*, n. 52, AAS 59 (1967) 885-928.

¹²⁰ Consilium pastorem Ecclesiae sollicitudinem convertit ad peculiare necessitates eorum, qui patrium solum relinquere coacti sint vel eo penitus careant; itemque quaestiones, ad haec attinentes, accommodato studio perpendendas curat. Cfr. *Pastor Bonus*, Art, 149.

refugees, and stateless people; those are the first categories mentioned. This concern is understandable given the number, but above all the suffering, of the victims of these extremely difficult situations. It can be said therefore that the main purpose of the new Pontifical Council is the pastoral care of migrants, exiles, refugees, and stateless people. We can understand this because of their number, their personal and family situations and the problems deriving from these: pastoral care, schools, formation, family meetings, the appropriate liturgical celebrations, a clergy of the same language and traditions, the maintenance of relations with the Church of origin, with the members of the family who have remained in the homeland, and finally relations with the Conference of Bishops of their country of origin and the receiving country.¹²¹

With the affirmation of the second part of article 149 “to follow with the necessary attention all questions related to this matter”, the Constitution *Pastor Bonus* intends to give appropriate faculty for the Pontifical Council “to study, research, and reflection to solve the issues related to this matter”¹²², that is, the matters regarding “those who have been forced to leave their homeland or who have none at all.” When we consider these two above mentioned principles, according to Prof. Velasio De Paolis, “there are two aspects to be stressed. They are the pastoral solicitude (“pastoralem Ecclesiae sollicitudinem”) and the questions related to this matter (“quaestiones, ad haec attinentes”).” Then Prof. Velasio commented:

It should be pointed out further that the expression ‘the pastoral solicitude of the Church’ indicates a direct action by the Pontifical Council, it being a dicastery that expresses the Church’s commitment as such, and thus of the petrine ministry (‘applies the pastoral solicitude of the Church’), while concerning the related questions, the commitment is rather indirect, being a matter of following with the necessary attention. Its task is rather that of promoting, of inducing, or of directing it.¹²³

¹²¹ JEAN BEYER, “Il Pontificio Consiglio della Pastorale...”, art. cit., p. 149; quoted by V. DE PAOLIS, in his article “The Communitarian Dimension...”, art. cit., p. 56.

¹²² V. DE PAOLIS, “The Communitarian Dimension...”, art. cit., p. 56.

¹²³ V. DE PAOLIS, “The Communitarian Dimension...”, art. cit., pp. 56-57; Treating the related questions, Fr. Beyer wrote: “As the Apostolic Constitution *Pastor Bonus* says, the Pontifical Council for the Pastoral care of Migrants and Itinerant People will strive to follow with due attention the matters related to human mobility. The Council has as its scope this attention. It must study and get informed about these problems, inform the interested

Then the second article dedicated to the Pontifical Council, art. 150 §1¹²⁴, specifies the particular activities of the Council. When we compare this article with art. 149 we can understand that art. 149 is dedicated to the “pastoral solicitude of the Universal Church” and that art. 150 is completely dedicated with respect to the particular Churches or, in any case, to other agencies. On the differences between the significance of these first two articles, Prof. Velasio De Paolis observed:

In the spheres defined by this article (art.150), the task of the Pontifical Council is to provide help, stimulus, surveillance, checks, etc. This readily emerges from the expressions used. Starting with the first paragraph, we can immediately take note that what is being considered is no longer ‘the Church’s pastoral solicitude’ with which the Pontifical Council is institutionally invested, but a commitment towards the local Churches: ‘The Council does everything it can (‘dat operam’) so that the particular Churches may offer an efficacious and appropriate spiritual assistance, also through opportune pastoral structures, if necessary.’¹²⁵

Therefore, it is the competence of the particular Churches as well as the Episcopal Conferences to provide appropriate pastoral care for the people of human mobility in accordance with n.18 of *Christus Dominus*. As a dicastery of the Roman Curia, the Pontifical Council’s role is, as mentioned in the art. 149, “to oversee, and to act so that the particular Churches may observe the guidelines regulating these matters.”¹²⁶

dicasteris, give rise a common action (art.150 §1-2; 151) and even, where it is needed, obtain the creation of stable commissions as is stated in art, 21 §2 of Pastor Bonus. “..., ed anche, ove necessario, ottenere la creazione di commissioni stabili, come previsto all’articolo 21 §2 della Pastor Bonus.” Cfr. J. BEYER, “Il Pontificio Consiglio...”, art. cit., p. 459.

¹²⁴ Pastor Bonus Art. 150 §1 “Consilium dat operam, ut in Ecclesiis particularibus efficax propriaque cura spiritualis, etiam, si res ferat, per congruas pastorales structuras, praebeatur sive profugis et exsulibus, sive migrantibus, nomadibus et circensem artem exercentibus.”

¹²⁵ V. DE PAOLIS “The Comunitarian Dimension ...”, art. cit., p. 57. Cfr. also J. BEYER, “Il Pontificio Consiglio della Pastorale ...”, art. cit., pp. 461-462.

¹²⁶ V. DE PAOLIS, “The Communitarian Dimension ...”, art. cit., p. 58.

3. Documents and Papal Teachings Regarding the Pastoral Care of Oriental Migrants

3.1. Pre-Second Vatican Council Documents and Teachings

3.1.1. A Glance at the Various Teachings and Documents

When we analyze the early history of the Eastern Churches, it should be clear that there was little attempt on the part of the Universal Church to preserve the identity of Easterners. However, during the second millenium many Popes did appreciate the Eastern churches traditions. Some Popes tried to protect these peoples from the dangers of heresies, schisms, persecutions, and even Latinization. Pontifical words and actions, for the most part, illustrate the great concern the Popes have had for these venerable rites. Leaving aside the early history of these rites, let us examine some important Church documents which emphasize the need of special pastoral care for the Oriental faithful in order to preserve the identity of Eastern Churches within the Catholic Church.

3.1.1.1. Teachings of the Fourth Lateran Council

The best example for this particular and special pastoral care is found in the decree of the Fourth Lateran Council. In this Council the Fathers solemnly decreed it necessary to follow the rites and language of the people where the spiritual good of the faithful so demands. It reads as follows:

Since in many places peoples of different languages live within the same city or diocese, having one faith but different rites and customs, we therefore strictly order bishops of such cities and dioceses to provide suitable men who will do the following in the various rites and languages: celebrate the divine services for them, administer the church's sacraments, and instruct them by word and example.¹²⁷

¹²⁷ "Quoniam in plerisque partibus intra eandem civitatem atque dioecesim permixti sunt populi diversarum linguarum, habentes sub una fide varios ritus et mores: districte praecipimus, ut Pontifices huiusmodi civitatum sive dioecesum provideant viros idoneos, qui secundum diversitates rituum et linguarum Divina officia illis celebrent, et ecclesiastica sacramenta ministrent, instruendo eos verbo pariter et exemplo." The Fourth Lateran Council, can. IX, in *Mansi*, "Sacrorum Conciliorum nova et amplissima collectio," XXII, Venetiis, p. 1778,

Therefore, the Church has kept this instruction in her mind and followed it faithfully; special parishes have been established for the various languages and nationalities and separate dioceses have been set up for the good and progress of different rites. Thus spiritual assistance regarding migrant people came into force with the help of the Fourth Lateran Council.

3.1.1.2. Interventions of Various Popes

Pope Benedict XIV praised all the ancient traditions, customs and institutions of the Greek Church which have their origin in the apostolic times and recommended that they be preserved. His papal constitution *Demandatum* states as follows:

Let the praiseworthy things in the Greek Church derived from the ancient tradition of the Fathers and confirmed by the apostolic approbation may retain their force and may be integrally executed by the faithful of that nation. Let not anybody add, or recommend to add anything to them which may lead to their contempt, so that their immunity may be assured. Besides let not any one on his proper authority innovate anything regarding them or presume to grant or permit to grant any dispensation on them.¹²⁸

Various activities of Pope Benedict XIV, such as the division of the Oriental Rites into the four major liturgical families and the numerous apostolic briefs, bulls, decrees, constitutions, encyclical letters and consistorial acts dealing with the inter-ritual matters show the great concern of the Catholic Church towards the Orientals.¹²⁹

998; *Decrees of the Ecumenical Councils*, edited by N. P. TANNER, vol. I, pp. 239-240; G. TESSAROLO, pp. 27-28.

¹²⁸ Ut omnia laudabilia Ecclesiae Graecae instituta ab antiqua patrum traditione derivata et apostolica comprobatione firmata in suo vigore permaneant atque a fidelibus istius nationis integre executioni tradantur neque aliquid iisdem suggerere aut suadere audeat quod illorum contemptu atque immunitionem inducere possit; multoque minus auctoritate propria aliquid circa illa innovare, aut etiam super iisdem aliquam dispensationem concedere vel admittere praesumant. MANSI, *Sacrorum Conciliorum Nova et Amplissima Collectio*, XII, p. 998.

¹²⁹ "Orientalem autem Ecclesiam omnibus notum est quattuor Ritibus, constare, Graeco videlicet, Armeno, Syriaco et Cophtico, qui sane Ritus universi sub uno nomine Ecclesiae Graecae, aut Orientalis intelliguntur." Cfr. BENEDICTI XIV, *Opera Omnia* (Prati: 1839-1846), vol. 17, 249-272; Fontes CIC, vol. II, n. 434, pp. 456-474; BASSET, *The Determination of Rite*, Roma, 1967, p. 48; KING, W.L., *Benedict XIV and the Orientals*, (Roma: Pontificium Institutum Orientalium Studiorum, 1940) in which King gives a chronological exposition of the documentation of Pope Benedict XIV.

On 6 January 1862, Pope *Pius IX* in the constitution *Romani Pontifices* established a separate section within the Congregation for the Propagation of the Faith for Catholics of Eastern rites, “*pro Negotiis Ritus Orientalis*”. Its principal concern was to be the preservation of the rites and the administration of discipline, “*inspecta Orientalium cum ritus tum disciplinae varietate*.”¹³⁰ Shortly after the setting up of the Oriental Section in Propaganda, the encyclical letter on the Oriental Rites of 6 April 1862, *Amantissimi humani generis*, condemned the mentality of Latinization and re-affirmed the mind of the Holy See to preserve the purity of the Oriental Rites.¹³¹

Through the famous encyclical letter *Orientalium Dignitas* Pope Leo XIII defended the inviolability of the Eastern rites and established a fundamental discipline for all the Oriental Rites in the Near East. In the same letter he declared:

The maintenance in being of the Eastern rites is of more importance than might be imagined. The august antiquity which lends dignity to these various rites is an adornment to the whole Church and a witness to the divine unity of the Catholic faith. Perhaps nothing, in fact, better proves the note of Catholicity in the Church of God than the singular homage paid by these ceremonies which vary in form, which are celebrated in languages venerable by their antiquity, and which are still further hallowed by the use that has been made of them by the Apostles and Fathers of the Church.¹³²

Moreover, in the same letter, Pope Leo XIII declared “all the Oriental Rites and their traditions are ornaments for the Universal Church

¹³⁰ Fontes CIC, vol. II, n. 531.

¹³¹ Cfr. BASSET, *The Determination of Rite*, op. cit., p. 60.

¹³² “Siquidem in ritum orientalium conservatione plus inest quam credi possit momenti. Augusta enim, qua varia ea rituum genera nobilitantur, antiquitas, et praeclaro est ornamento Ecclesiae omni, et fidei catholicae divinam unitatem affirmat. Inde enimvero, dum sua praecipuis Orientis Ecclesiis apostolica origo testatior constat, apparet simul et enitet earumdem cum Romana usque ab exordiis summa coniunctio. Neque aliud fortasse admirabilius est ad *catholicitatis* notam in Ecclesia Dei illustrandam, quam singulare quod ei praebent obsequium dispaes caeremoniarum formae nobilesque vetustatis linguae, ex ipsa Apostolorum et Patrum consuetudine nobiliores; fere ad imitationem obsequii lectissimi quod Christo divino Ecclesiae auctori,” Cfr. LEO XIII, *Orientalium Dignitas*, Litterae Apostolicae de disciplina Orientalium Conservanda et tuenda, Acta Leonis XIII, 14 (1895) 361-362; DSS, n. 27.

and this variety confirms the divine unity of Catholic faith ¹³³ and they should be protected by all means. The last affirmation reads as follows:

Neither the last mentioned one was the duty of the vigilance so that the proper traditions and the sacred rubrics of each Oriental community decreed according to the personal knowledge or on the proper authority, may be preserved always integral and cared for.¹³⁴

Then, in the same letter, Pope Leo XIII gave permission to all Orientals who had transferred to the Latin rite to return to their former rite on petition to the Holy See.¹³⁵ In canon IX of *Orientalium Dignitas*, he declared: "Even though an Oriental may be outside the patriarchal territory and under the administration of the Latin clergy, he remains ascribed to his own proper rite. If he should return to the patriarchal territory, he is immediately subjected to the jurisdiction of the Patriarch of his own rite."¹³⁶

On 23 December 1929, the Sacred Congregation for the Oriental Churches, in a decree *Qua sollerti* exhorts the Latin Bishops of America to provide every means for the Oriental faithful to protect their rite and flourish in America. It reads:

Therefore, it requests again and again the same ordinaries that they may with great zeal, interest and earnestness, take upon themselves, in accordance with the IXth article of the Constitution *Orientalium Dignitas*, regarding the care of the faithful of the Oriental Churches, to erect churches and schools for

¹³³ "Siquidem in rituum orientalium conservatione plus inest quam credi possit momenti. Augusta enim, qua varia ea rituum genera nobilitantur, antiquitas, et praeclaro est ornamento Ecclesiae omni, et fidei catholicae divinam unitatem affirmat". Cfr. LEO XIII, *Orientalium Dignitas*, p. 361.

¹³⁴ "Neque ultimum illud vigilantiae officium, ut proprias cuiusque orientalis gentis consuetudines sacrorumque rationes, quas pro protestate et sapientia sua legitimas edixisset, integras in eis perpetuo custodiret ac tueretur." Cfr. LEO XIII, *Orientalium Dignitas*, p. 359.

¹³⁵ VII. "Orientalibus qui ritum latinum, etiamsi ex pontificio rescripto susceperint, revertere ad pristinum, Apostolica Sede exorata, licebit." LEO XIII, Ap. Letter *Orientalium dignitas*, p. 365; DSS, n.29.

¹³⁶ IX. "Quicumque orientalis, extra patriarchale territorium commorans, sub administratione sit cleri latini, ritui tamen suo permanebit adscriptus; ita ut, nihil diuturnitate aliave causa ulla suffragante, recidat in ditionem Patriarchae, simul ac in eius territorium revererit." LEO XIII, Ap. Letter *Orientalium dignitas*, p. 366; DSS, n.29.

them as far as possible, in order that their rite may remain safe and sound. If, in particular circumstances they cannot have their own schools, let them be helped to be admitted in the schools of the diocese lest they may be forced to send their children to Protestant or non-Christian schools. In the same way and more especially, let them try to foster ecclesiastical vocations among the children and train them not only in piety and in ecclesiastical disciplines, but also, having consulted this Sacred Congregation, instruct them regarding their rite and let them be ordained in their rite. Thus, trained and instructed in their rite, when they are put in charge of the faithful of their rite, their services would be more agreeable and they would be accepted with a greater disposition.¹³⁷

In order to emphasize the genuine character of the traditional customs and doctrines of the Oriental Rites and their preservation, Pope Pius XII wrote in his encyclical in 1944:

Each and every nation of Oriental Rite must have its own rightful freedom in all that is bound with its own history and its own genius and character, saving always the truth and integrity of the doctrine of Jesus Christ.... They will never be forced to abandon their own legitimate rites or to exchange their own venerable or traditional customs for Latin rites and customs. All these are to be held in equal esteem and honour, for they adorn the common Mother Church with a royal garment of many colors. Indeed this variety of rites and customs, preserving inviolate what is most ancient and most valuable in each, presents no obstacle to a true and genuine unity.¹³⁸

¹³⁷ "Rogat igitur magis magisque eosdem Ordinarios, ut omni zelo, studio et industriaincumbant, ad normam praesertim Cost. *Orientalium dignitas* n.9 in curam orientalium fidelium in suis dioecesibus commorantium, ut, incolumi manente ritu, ecclesias et quidem scholas, quatenus fieri possit, pro iis excitandas curent: quod si ii proprias scholas habere, pro rerum adiunctis, non valeant, omni ope adnitantur ne illi orientales quasi coacti sint suos pueros scholis protestanticis aut alienis a sensu Christi committere. Pariter, quinimo praesertim, foveant vocationes ecclesiasticas in filiis indigenis illorum fidelium ritus orientalis, et curent ut non solum ad pietatem informentur et ecclesiasticis disciplinis imbuantur, sed etiam, consulta hac Sacra Congregatione, ut in proprio ritu probe instruantur et in sacris ordinentur; nam iis quoque, ita eruditis et institutis, addictis ad curam spiritualem fidelium suorum rituum, plenius huic curae spirituali prospectum erit, quia eorum opera convenientius erit impensa et propensius accepta. Sacra Congregatio pro Ecclesia Orientali, *Qua sollerti*, Decretum de Clericis orientalibus, sive saecularibus, sive religiosis, qui e territoriis aut Dioecesibus orientalibus in Septentrionalem vel Mediam, vel Meridionalem Americam, vel in Australiae regiones demigrant, ut spiritualem inibi curam praestent fidelibus proprii ritus, AAS 22 (1930) 101; DSS, n. 648.

¹³⁸ PIUS XII, *Orientalis ecclesiae decus*, AAS 36 (1944) 129-144.

In the radio broadcast of 31 December 1952, directed to the faithful of the Malabar Rite gathered at Ernakulam to celebrate the centenaries of the Apostle Thomas, Pope Pius XII said:

It is hardly necessary for us to remind you that the Catholic Church demands of no one to adopt foreign ways of living. The Church belongs to the East as well as the West. She is bound to no particular culture, she is at home with all who respect the commands of God.¹³⁹

Thus, we have seen various interventions of the Universal Church and what she did in favour of her Oriental children in order to keep and preserve their faith and the progress of their Churches in general.

3.1.2. The Code of Oriental Canon Law: The Four Motu Proprio

Until 1949 there was no code of Canon Law common to all the Catholic Oriental Churches. They were bound by some of the constitutions, decrees and instructions of the Holy See as well as the ancient holy canons still in force. Each Oriental Church followed its own discipline based on the first ecumenical councils, its proper synods, customs, and other canonical norms. The encouragement given by the 1917 Code of Canon Law urged the Holy See and the ecclesiastical authorities of the Oriental Churches to gather the Oriental laws into a common code for all the Oriental Churches. Accordingly, a special Commission was set up for the Code of Oriental Canon Law, which resulted in the promulgation of four motu proprio.¹⁴⁰

3.1.2.1. The Motu Proprio *Crebrae Allatae*

Crebrae allatae establishes for the first time a common matrimonial law for Orientals. The motu proprio is divided into 12 chapters and altogether has 131 canons. After the promulgation it resolved many problems regarding inter-ritual marriages which arose from the circumstances of human mobility. In general it followed the Latin Code 1917,

¹³⁹ Cfr. AAS 45 (1953) 98-99.

¹⁴⁰ Those four Motu Proprio are: *Crebrae allatae*, AAS 41 (1949) 89-119; *Sollicitudinem Nostram*, AAS 42 (1950) 5-120; *Postquam Apostolicis Litteris*, AAS 44 (1952) 65-162; *Cleri Sanctitati*, AAS 49 (1957) 433-603.

but there are frequent references to the canons of the Oriental Churches and also emphasis on the identity of the Oriental Churches.

3.1.2.2. The Motu Proprio *Sollicitudinem Nostram*

It contains the procedural law with 576 canons. Divided into three parts, namely judiciary cases in general, contentious processes and criminal processes, it proceeds along the same line as the Latin Code 1917, but here and there gives some elaboration and clarification. After its promulgation it contributed very much to the Oriental Churches, especially for the systematisation of ecclesiastical tribunals.

3.1.2.3. The Motu Proprio *Postquam Apostolicis Litteris*

Postquam apostolicis litteris is divided into three parts, namely on monks and religious, on the temporal goods of the Church and on the signification of canonical terms; it contains 325 canons. The major part of this motu proprio is dedicated to the canons on religious because the Church wanted to preserve and re-create the remnants of genuine Oriental traditions among the Oriental religious.

3.1.2.4. The Motu Proprio *Cleri Sanctitati*

Oriental Rites and persons is the subject of this motu proprio, which is perhaps the most important of the four. Altogether there are 558 canons divided into five titles. The introductory section on the Oriental Rites stresses the preservation and conservation of the rites. Then it follows the general norms concerning physical and moral persons, the laws on clerics in general and in particular and on the laity. The canons on the patriarchs, major archbishops and their synods are specific to this motu proprio. Let us look at some of the important canons in relation to the preservation and conservation of rites:

- i. The Eastern Rites, whose venerable antiquity is an illustrious ornament to the entire Church as well as an affirmation of the divine unity of the Catholic faith, shall religiously be preserved (can. 1 §1).
- ii. Patriarchs, archbishops and other hierarchs shall with great care promote the faithful preservation and accurate observance of their Rite, and they shall not permit or tolerate the introduction of any change into the Rite (can.1 §2).

- iii. Every sacred minister shall accurately observe his Rite in the celebration of Divine Liturgy, in the administration of the sacraments and sacramentals (can. 2 §1).
- iv. Where there are several Rites, the faithful shall be advised often to frequent churches of their own Rite (can. 2 §2).
- v. No one shall presume to induce in any manner anyone from among the faithful to join another Rite (can. 7).
- vi. No one can validly transfer to another Rite, nor after a lawful transfer return to the former Rite, without permission of the Apostolic See (can.8 §1).
- vii. The faithful of an Eastern Rite who are lawfully subject to a Hierarch or pastor of a different Rite continue to remain members of their own Rite (can.14).
- viii. The patriarch can send a suitable priest to the communities of faithful of his Rite who reside outside the territory of the patriarchate with the consent of the Apostolic See (can 261 §1).
- ix. Apostolic exarchs to whom the care of faithful of a different Rite was committed must in addition send a report on the personnel and religious situation of these faithful to the patriarchs and archbishops whose faithful was committed to their care (can. 376 §2) and also shall be vigilant of liturgical and disciplinary laws of these faithful (can. 382).
- x. Latin Rite bishops shall also inform the Sacred Congregation for the Oriental Churches on the occasion of their quinquennial report of the situation and needs of groups of faithful of another Eastern Rite who reside in their territory and are deprived of a hierarch of their Rite (can. 406).
- xi. If in a diocese of the Latin Rite there are communities of faithful of the Oriental Rite, a syncellus shall be appointed to take care of them. If possible, he should be of an Eastern Rite, otherwise, a Latin priest may be appointed, who is qualified and well-versed in Oriental matters (can.432 §4).
- xii. A pastor who has faithful of different Rites must every year submit to their hierarch a statistical report together with appropriate information concerning their condition (can. 511 §4).
- xiii. Associations of laymen of different Rites are under the jurisdiction of the Latin Bishops, the latter must see that no name or title, which is contrary to the Rites or traditions of the Oriental Churches, be introduced (can. 535 §2).

xiv. If the members of the association are almost of the same Rite, which differs from the Rite of the religious in whose church the association is erected, both the spiritual moderator and the chaplain must be of the same Rite as the members of the association, and the exercise of the association must be performed in a church of the Rite of the members.(can.546 §1,3).

Thus, the motu proprio *Cleri Sanctitati* presents several canons in view of the preservation and conservation of the Oriental Churches. Many canons of this motu proprio bind both Orientals and Latins. But we do not see such canons in the 1917 Code of Canon Law except can. 98 §2, which forbids the clerics any kind of inducement for the transfer of one Rite to another. *Cleri Sanctitati* now forbids transfer also to the laity, including Latins.

3.2. Post-Second Vatican Council Documents

3.2.1. The Ap. Const. *Pastor Bonus* and the Congregation for the Oriental Churches.

Aside from its history and other details,¹⁴¹ let us examine the competence of the Congregation for the Oriental Churches according to the Apostolic Constitution *Pastor Bonus*. First of all, the Congregation is a dicastery of the Roman Curia.¹⁴² Each dicastery of the Roman Curia carries out its role in assisting the Roman Pontiff in his supreme pastoral office for the benefit of and in the service of the Universal Church and of

¹⁴¹ However, from the time of Pope Gregory XIII (1572-1585), there was an attitude in the Universal Church in favor of oriental catholics. With the erection of the Congregation *De Rebus Graecorum*, in 1573 he entrusted not only all the businesses of Catholic Greek-Bizantine rite but also the promotion, preservation and propagation of faith among the other oriental christians. This was the actual origin of the Congregation of the Oriental Churches. Then it was gradually developed under various popes. Finally, on 1 May 1917, Pope Benedict XV in his motu proprio *Dei providentis* erected the new Sacred Congregation for the Oriental Churches to which he entrusted all the matters regarding the Orientals both singularly and collectively, and regarding the inter-ritual matters. Cfr. Sacra Congregazione per la Chiesa Orientale, *Oriente Cattolico*, Città del Vaticano, 1962, pp.7-8; M. BROGI, "La Congregazione per le Chiese Orientali, in *La Curia Romana nella Cost. Ap. <<Pastor Bonus>>*, Città del Vaticano, 1990, p. 240.

¹⁴² "Curia Romana complexus est Dicasteriorum et Institutorum, quae Romano Pontifici adiutricem operam navant" *Pastor Bonus*, Art. 1. The various dicasteries of the Roman Curia are: "Dicasteriorum nomine intelleguntur Secretaria Status, Congregationes, Tribunalia, Consilia et Officia." Cfr. *Pastor Bonus*, Art. 2 §1.

the particular Churches. In giving this service to the Roman Pontiff, the jurisdiction of the Congregation for the Oriental Churches extends to all the matters regarding the Orientals (both singularly and collectively), and to Latins regarding inter-ritual matters (PB art.58). This reflects Pope Pius IX's original competence for the Oriental Section of the Congregation for the Propagation of the Faith.¹⁴³ The language of Pius IX was taken and used by Pope Benedict XV in his motu proprio *Dei providentis*¹⁴⁴ and in the Code of Canon Law of 1917¹⁴⁵; later in the motu proprio *Cleri Sanctitati*¹⁴⁶; and finally in the Apostolic Constitution *Regimini ecclesiae universae*, with the omission of the last phrase of

¹⁴³ On 6 January 1862, Pope Pius IX in the Apostolic Constitution *Romani Pontifices* established a separate section within the Congregation for the Propagation of the Faith for Catholics of eastern rites under the title *Sacra Congregatio de Propaganda Fide pro Negotiis Ritus Orientalis*. Its principal concern would be the preservation of the rites and the administration of discipline. The terms used by Pius IX in this apostolic constitution are very clear on this matter: "Nova Congregatio a Nobis instituta omnia orientalium negotia, etiam mixta, quae scilicet sive rei, sive personarum ratione Latinos attingant, tractare debet, nisi eadem Congregatio negotia ipsa ad generalem Propagandae Fidei Congregationem deferenda esse interdum existimaverit". Cfr. *Collectanea*, vol.I, 670; M. BROGI, "La Congregazione per le Chiese Orientali", in *La Curia Romana nella Cost. Ap. <<Pastor Bonus>>*, art. cit., p. 246.

¹⁴⁴ *Dei providentis* III: "Huic Congregationi reservantur omnia cuiusvis generis negotia quae sive ad personas, sive ad disciplinam, sive ad ritus Ecclesiarum orientalium referuntur, etiamsi sint mixta, quae scilicet sive rei sive personarum ratione Latinos quoque attingant." Cfr. M. BROGI, "La Congregazione per le Chiese Orientali", art. cit., p. 247.

¹⁴⁵ CIC 1917 can. 257 §1. Congregationi pro Ecclesia Orientali praeest ipse Romanus Pontifex. Huic Congregationi reservantur omnia cuiusque generis negotia, quae sive ad personas, sive ad disciplinam, sive ad ritus Ecclesiarum referuntur, etiamsi sint mixta, quae scilicet sive rei sive personarum ratione Latinos quoque attingant.

§2. Quare pro ecclesiis ritus orientalis haec Congregatio omnibus facultatibus potitur, quas aliae Congregationes pro Ecclesiis ritus latini obtinent, incolumi tamen iure Congregationis S. Officii ad normam can. 247.

§3. 1° Haec Congregatio controversias dirimit via disciplinari; quas vero ordine iudiciario dirimendas iudicaverit, ad tribunal remittet quod ipsa Congregatio designaverit.

2°. Haec Congregatio controversias dirimit via disciplinari, quas vero ordine iudiciario dirimendas censuerit, ipsa, servato eodem ordine, cognoscet aut ad tribunalia ordinaria Apostolicae Sedis remittet.

¹⁴⁶ Motu Proprio *Cleri Sanctitati*, can 195 §1: "Congregationi pro Ecclesia Orientali ... omnia cuiusque generis negotia quae sive ad personas, sive ad disciplinam, sive ad ritus orientales referuntur, etiamsi sint mixta, idest sive rei sive personarum ratione Latinos quoque attingant."

assertion.¹⁴⁷ Referring to the competence of the Congregation for the Oriental Churches, the Apostolic Constitution *Pastor Bonus* follows the same line as the previous documents, and says: “Congregatio ea cognoscit, quae, sive quoad personas sive quoad res, Ecclesias Orientales Catholicas respiciunt”(n.56).¹⁴⁸ Based on the assertion of art. 56, art. 58 §1, the document specifies the Congregation’s competence as follows:

The competence of the Congregation extends all the matters that are proper to the Oriental Churches and that have to be referred to the Apostolic See, both about the structure and arrangement of the churches, and about the exercise of the teaching, sanctifying and governing functions, and about the persons, their state, their right and duties.¹⁴⁹

From these affirmations we can conclude that the competence of the Apostolic Constitution *Pastor Bonus* remains in “*omnia negotia*” without any changes. However, some exceptions exist in relation to its competence, which are clearly specified in §2 of the same art. 58.¹⁵⁰

Regarding the competence towards the Oriental faithful who are residing in the territories of Latin Church, art. 59 states:

The Congregation follows similarly with special diligence the communities of the Oriental faithful that are in the territories of the Latin Church and provides

¹⁴⁷ PAUL VI, Apostolic Constitution *Regimini ecclesiae universae*, n. 44: “Congregatio pro Ecclesiis Orientalibus cognoscit omnia cuiusvis generis negotia, quae sive ad personas, sive ad disciplinam, sive ad ritus Ecclesiarum Orientalium pertinent, etiamsi sint mixta, quae scilicet sive rei sive personarum ratione, Latinos quoque attingant.”

¹⁴⁸ “The Congregation treats the matters concerning Oriental Churches both about persons and things.” Cfr. *Pastor Bonus*, art. 56.

¹⁴⁹ “Huius Congregationis competentia ad omnia extenditur negotia, quae Ecclesiis Orientalibus sunt propria, quaeque ad Sedem Apostolicam deferenda sunt, sive quoad Ecclesiarum structuram et ordinationem, sive quoad munus docendi, sanctificandi et regendi exercitium sive quoad personas, earundem statum, iura ac obligationes.” Cfr. *Pastor Bonus* art. 58 §1.

¹⁵⁰ Art.58 §2 : “Integra tamen manet propria atque exclusiva competentia Congregationum de Doctrina Fidei et de Causis Sanctorum, Paenitentiarum Apostolicarum, Supremi Tribunalis Signaturae Apostolicae et Tribunalis Rotae Romanae, necnon Congregationis de Cultu divino et Disciplina Sacramentorum ad dispensationem pro matrimonio rato et non consummato quod attinet.

In negotiis, quae Ecclesiae Latinae fideles quoque attingunt, Congregatio procedat, si rei momentum id postulet, collatis consiliis cum Dicasterio in eadem materia pro fidelibus Latinae Ecclesiae competenti.”

for their spiritual needs through Visitors, or better still where the number of faithful and the circumstance demand it, and in so far it is possible, also through their own hierarchy, after having consulted with the competent Congregation for the constitution of particular churches in the same territory.¹⁵¹

By means of this article, the Holy See exhorts the Congregation to give careful attention to the communities of Oriental faithful who are living in Latin territories, on the basis of the Conciliar teachings *Christus Dominus* n.23 and *Orientalium Ecclesiarum* n.4, *Regimini Ecclesiae universae* n.44, and the *Codex Iuris Canonici* cc. 372 §2 and 383 §2, and to provide adequate spiritual care either by means of Visitors or through a special hierarchy for the faithful of different rites in the above-said territories.

The appointment of apostolic visitors and the constitution of new hierarchies has always been reserved to the Holy See; for the Orientals it was previously done through the Oriental Congregation. This principle is not a new invention in the Apostolic Constitution *Pastor Bonus*, since it had already come into practice through the Apostolic Constitution *Regimini Ecclesiae universae*.¹⁵² Using the above-mentioned principle of *Regimini Ecclesiae universae*, *Pastor Bonus* also exhorts the Oriental Congregation that, before erecting new dioceses outside the Oriental territories, she is to proceed "*collatis consiliis*" with the competent Latin Congregation for the erection of new dioceses in the same region, that is, the Congregation for Bishops or in certain cases the Congregation for the Evangelization of People or the Secretary of State, formerly the Council for the Public Affairs of the Church.¹⁵³

¹⁵¹ "Congregatio sedula cura item prosequitur communitates Christifidelium orientalium in circumscriptionibus territorialibus Ecclesiae Latinae versantium, eorumque necessitatibus spiritualibus per Visitatores, immo, ubi numerus fidelium atque adiuncta id exigant, quatenus fieri possit, etiam per propriam Hierarchiam consulit, collatis consiliis cum Congregatione pro constitutione Ecclesiarum particularium in eodem territorio competenti." Cfr. *Pastor Bonus*, art. 59 and also cfr. articles 47; 75; 89.

¹⁵² The second part of this Apostolic Constitution states: "Immo in ipsis territoriis latinis sedula cura, etiam per Visitatores, invigilat nucleus nondum ordinatis fidelium Rituum Orientalium eorumque spiritualibus necessitatibus, quoad fieri potest, consulit, per constitutionem quoque propria hierarchiae, si numerus fidelium et adiuncta id exigant." Cfr. *Regimini Ecclesiae universae*, n.44.

¹⁵³ M.BROGI, "La Congregazione per le Chiese Orientali", art. cit., p. 262.

3.2.2. Preservation of Rites According to Codex Canonum Ecclesiarum Orientalium

Following the same line of the motu proprio *Cleri Sanctitati*¹⁵⁴ the new Code of the Oriental Churches dedicated three canons very precisely to the preservation of rites under the heading of “*De ritibus servandis*”¹⁵⁵ Affirming the divine unity in the diversity of Catholic faith, can.39 of the CCEO exhorts every one in the Church that the rites of the Eastern Churches, as the patrimony of the entire Church, are to be religiously preserved and fostered. Following this common affirmation can.40 §1 particularly asks the hierarchs of the various *Ecclesiae sui iuris* to watch over and take care of the observance of their own rite. In the same way, §2 and §3 of the same canon speak about the obligations of all clerics and the members of the institutes of consecrated life and other Christian faithful for vigilance and observation of their rite in their day-to-day life. In the case of Christian faithful, §3 further affirms their obligation in the observation of their rite everywhere unless the law makes some exception.¹⁵⁶ Thus the Catholic Church reaffirms her position regarding the preservation of the patrimony of each *Ecclesia sui iuris*; in other words, through the preservation of this venerable antiquity, we keep up the ornament of the entire Church.¹⁵⁷ Finally, can.41 exhorts all *Ecclesiae sui iuris* to give adequate instructions for their faithful regarding their rites in order to fulfill their ministry within their own *Ecclesia sui iuris*.

3.2.3. Ius Speciale and Migrants

In the solemn presentation of the *Code of Canons of the Eastern Churches* Pope John Paul said the following words to the Fathers of the Synod:

Among these norms are to be included those which deal with the exercise of power by the heads of the Oriental Churches *sui iuris*, within a determined territory, and those which refer to the joint desire of parents concerning the

¹⁵⁴ PIUS XII, Motu proprio *Cleri Sanctitati*, Titulus I, “De ritibus orientalibus” cans. 1-15, AAS 49 (1957) 435-603.

¹⁵⁵ CCEO, Caput II “*De ritibus servandis*”, cans. 39, 40, 41.

¹⁵⁶ “Ceteri quoque christifideles proprii ritus cognitionem et aestimationem foveant eumque ubique observare tenentur, nisi iure aliquid excipiatur.” Cfr. CCEO, can. 40 §3.

¹⁵⁷ *Cleri Sanctitati* can. 1 §1.

ritual patrimony of their children. Have faith that Lord of Lords and King of Kings will never permit the diligent observance of these laws to harm the Oriental Churches.

In any case, concerning the first point, I repeat what I said at the final Plenary Assembly of the Members of the Commission which prepared the Code. Now that the Code has been promulgated, I will be happy to consider proposals, formulated in the synods, well-detailed and with clear reference to norms in the Code, for which it may be thought to be opportune to draw up a '*ius speciale*' and '*ad tempus*'; the Code opens up this route in the relative canon with a clause referring to the '*ius a Romano Pontifice approbatum*.'

Expressing his great hope towards the competent authorities of the various countries to handle and settle this problem in an amicable manner and also wishing the growth and protection of these Oriental Churches, the Pontiff continued:

This is to be found also in the canon concerning the joint desire of spouses regarding the choice of the ritual patrimony of their children, to show how ways can be devised, when this is seen to be really necessary, to protect the growth of the Oriental Churches in areas where they are in a minority. I am very confident however, that in all areas the competent groups, such as the Bishop's Conferences and Inter-ritual Assemblies, will find a way to guarantee not only the peaceful coexistence of the faithful belonging to different rites, but to create a single family of the children of God who love one another as Jesus loved us--a family which is one and at the same time varied. I am also confident that all the *Ecclesiae sui iuris* can be convinced that their survival, the protection of their identity, their growth and their own image in the modern world, will not be in danger if the 'hearts, consciences, behaviour and customs' of their faithful are in harmony with the deepest human and Christian values and to the 'mutual submission of spouses in the fear of Christ.'¹⁵⁸

From the sayings of the Holy Father, it is very clear that the Apostolic See is conscious of this delicate issue which is facing the whole world, and at the same time knows the preoccupations and concern of the Oriental Churches towards their migrants who live outside the territory of these Churches. Speaking on the motive of this papal announcement Mons. Emilio Eid, Vice president of the Pontifical Commission for the

¹⁵⁸ *L'Osservatore Romano* (weekly English edition), 5 November 1990, p. 4.

Oriental Code said: “the *ius speciale* envisaged for the extension of patriarchal jurisdiction outside their territories is very important for all Oriental Churches.”¹⁵⁹

4. Common Sources for the Pastoral Care of Migrants in the Decrees of Second Vatican Council

4.1. Decree *Christus Dominus* and Migrants in General

In this section we will discuss the various schemata concerning the pastoral care of migrants, which were prepared and discussed in the various sections of the Council. These schemata helped the Council Fathers to reach the final texts for the pastoral care of migrants. Here, however, we want to give more emphasis to numbers 18 and 23 of the Council decree *Christus Dominus*, because they are the sources of various canons of CIC and CCEO with regard to the pastoral care of migrants both Latin and Oriental. Finally, we are trying to expose the most important Conciliar texts regarding the pastoral care of migrants.

4.1.1. A General Vision

The pastoral questions arising from the greater mobility of modern man were manifold at the time of the Council. Therefore, the Council Fathers felt that the Apostolic Constitution *Exsul Familia* needed to be changed in accord to the present situation of human mobility. The questions pertaining to the pastoral care of migrants were, from the beginning, the competence of the Commission of *De Episcopis ac de Dioeceseon Regimine*, headed by Cardinal Paolo Marella.¹⁶⁰ This Commission had the responsibility of studying an important section of the *schema*, called *Praecipuae de animarum cura quaestiones*¹⁶¹. In this section, there were explicit references to the pastoral care of migrants¹⁶². As usual, the Commission examined and researched all adequate measures that would

¹⁵⁹ Quoted in JOSE PORUNNEDOM, *The Syro-Malabar Church and All-India Jurisdiction: A Historico-Juridical Study* (unpublished thesis), Rome, 1991, p. 277.

¹⁶⁰ *Acta et Documenta Concilio Oecumenico Vaticano II Apparando*, vol. II, Pars III, Typis Polyglottis Vaticanis, 1960, pp. 628-631, (henceforth *Acta et Documenta*).

¹⁶¹ *Acta et Documenta*, vol. II, Pars III, p. 676.

¹⁶² *Acta Synodalia*, Appendix VI: Titulus <<De Pastoralis Cura Peculiarum Quorundum Fidelium>>; << Praecipue Normae Referendae in Directorum Generale”. Part I: De

preserve integrally the faith and lives of the migrants.¹⁶³ The problem of the pastoral care of migrants was always under the competence of the Cosistorial Congregation. As a consequence it is natural that the subject regarding to the pastoral care of migrants should fall under the responsibility of the Bishops since this problem affects the life of every diocese.¹⁶⁴

However, in spite of various and successive reductions of the *schema*, the Central Commission considered the text too long, too meticulous and too detailed, and asked to have the text reduced even further. After the examination of the text the General Commission stated that the text "must be limited only to general principles, while the other questions and matters on the subject must be deferred to the new Code or to other post-Conciliar documents, to a Directory or to a pastoral manual that should be compiled."¹⁶⁵ The General congregation proposed the *Resolutio*

Pastorali Cura Fidelium Migrantium>>. Cfr. *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II*, vol.II, pars IV, Typis Polyglottis, 1972, pp. 811-819 (henceforth *Acta Synodalia*).

This text was divided into five parts, contained 46 articles. They are: "De Pastoralis Cura Fidelium Migrantium" (pars I) together with "Principia Generalia" and "Normae Practicae", "De Pastoralis Cura Fidelium Maritimorum" (pars II), "de Pastoralis Cura Fidelium Aeronavigantium" (pars III), "De Pastoralis Cura Nomadum" (pars IV), "De Pastoralis Cura Peregrinatorum" (pars V).

¹⁶³ It is explicitly stated by Cardinal Marella in his statement on the sixth session of the Commission on the 11 April 1962, on "Quaestiones de Episcopis et de Dioceseon Regimini", in n. II. De capite I, in quo de spirituali ac morali emigrantium cura agitur, quaedam in genere dicenda censeo.

Huiusmodi quaestio explicite Commissioni nostrae posita est, ita nempe ut media apta expenderentur, quae emigrantibus auxilium praestent ad illorum fidem moresque integre servandos. Cfr. *Acta et Documenta*, Series II, vol. II, pars III, p. 738.

¹⁶⁴ V. DE PAOLIS, "La Pastorale dei Migranti nel Documenti Conciliari", in *SCRIS Informationes*, 2 (1989) 244.

¹⁶⁵ "Nunc autem in praesenti schemati Decreti "De Pastoralis Episcoporum Munere in Ecclesia", innumerae quaestiones vel nullo modo indicantur vel solummodo innuntur: schema enim summa tantum pricipia continet atque proponit. Iamvero tantus labor inanis in Domino non fuit, sed profecto magni pretii magnaue utilitatis erit. Siquidem permulta examinata et excusa de re pastoralis argumenta, tot elaborata a Paribus et Peritis studia ac vota, tam magna producta animadversionem et documentorum copia, quae fere universum apostolatus campum comprehendere videntur, non solum constituunt praeclarum testimonium pastoralis praecipue, uberrimum praebent fontem investigationis ac studii amplissimamque efficiunt consiliorum et normarum collectionem pro recognoscendo Codice Iuris Canonici et pro conficiendis Directoriis illis pastoralibus, quae a multis Sacris Praesulibus exoptantur." Cfr. *Acta Synodalia*, vol. III, pars II, p. 59.

to be shortened and combined with other drafts on similar subjects. This *Resolutio* would later be submitted to the Council Fathers without being discussed in the Council itself.¹⁶⁶

Although later a Sub-committee was constituted to draw up a document according to the specifications of the Council Fathers, it was not examined in the Conciliar section because of the lack of time and because such a document dealt with a subject that was predominantly disciplinary.¹⁶⁷ As a consequence the schema *De Cura Animarum* was totally eliminated from the list of schemata and it was decided that the more relevant norms of the schema were to be included in *De Episcopis ac de Dioeceseon Regimine*.¹⁶⁸ This inclusion resulted in additional schema, which would be called *De Pastoralis Episcoporum Munere in Ecclesia*.¹⁶⁹ This new schema had three elaborations. In the meantime, on 23 January 1964, the Coordinating Commission ordered the basic principles of the *De Cura Animarum* to be included in the schema *De*

¹⁶⁶ *Commentary on the Documents of the Vatican II*, ed., HERBERT VORGRIMLER, New York, vol. II, 1989, p.186; cfr. also V. DE PAOLIS, "La Pastorale dei Migranti nei Documenti Conciliari", art. cit., p. 244.

¹⁶⁷ Cfr. V. DE PAOLIS, "The Pastoral Care of Migrants in the Teachings and Directives of the Church", art. cit., p. 123; "La pastorale dei Migranti...", art. cit., p.245; G. CHELI, "The Pontifical Commission's Perspective on the Changing Trends in International Migration and the Church's Social and Pastoral Response to These Trends", art. cit., p. 33.

¹⁶⁸ "Novum hoc schema Decreti "De pastoralis Episcoporum munere in Ecclesia" ex praecipuis articulis coalescit, de quibus agebatur in duobus prioribus schematibus Decretorum "DE Episcopis ac de dioecesium regimine" et "De cura animarum", idemque diligenter elaboratum est normis prae oculis habitis, quae a Commissione de laboribus Concilii coordinandis praefinitae sunt. Haec enim in litteris d. 29 novembris 1963 Commissioni de Episcopis et de dioecesium regimine ita mandavit: "ridurre la materia dei propri schemi, in conformità delle finalità preminentemente pastorali del presente Concilio, rinviando alla prossima riforma del Codice di Diritto Canonico gli argomenti a carattere prevalentemente giuridico", ac deinde litteris d. 23 ianuarii 1964 sic statuit: "Nello schema "de Episcopis ac de dioecesium regimine" siano incluse le norme più rilevanti e gli indirizzi fondamentali dello schema "de cura animarum", che viene perciò eliminato come tale dall'elenco degli schemi". Cfr. *Acta Synodalia*, vol. III, pars II, p. 45; V. DE PAOLIS, "La Pastorale dei Migranti", art. cit., p. 245; *Commentary on the Documents of the Vatican II*, ed., H. VORGRIMLER, vol. II, p. 187.

¹⁶⁹ *Acta Synodalia*, vol. III, pars II, pp. 22-95; 219-295. Cfr. V. DE PAOLIS, "La Pastorale dei Migranti", art. cit., p. 245; H. VORGRIMLER, *Commentary on the Documents of Vatican II*, vol. II, pp. 165, 187.

Pastorali Episcoporum Munere in Ecclesia.¹⁷⁰ Finally, it was approved by the General Congregation on 6 October 1965 and was promulgated by Pope Paul VI on 28 October 1965.

4.1.2. Various Stages of Elaboration

To understand the final texts of the Council regarding the pastoral care of migrants, it is very useful to review its various passages especially from the preparatory stage to that of Conciliar; from the schema *De Animarum Cura* to the schema *De Pastorali Episcoporum Munere in Ecclesia*.

4.1.2.1. The Preparatory Stage

4.1.2.1.1. The Schema *Praecipuae De Animarum Cura Quaestiones*¹⁷¹

The title of the first chapter, part II, of this schema is *De Emigrantium Cura*.¹⁷² The chapter comprises an introduction and two articles, which also appeared in the main schema *Propositum A Commissione De Episcopis ac de Dioceseon Regimine*.

4.1.2.1.2. The Introduction of the Schema *De Emigrantium Cura*

The phenomenon of migration, which is done freely or forced and which has assumed vast proportions, urgently needs specific pastoral care according to the spiritual, moral, and social life of the migrants in order to preserve their faith in the difficult situation of their life in which they find themselves.¹⁷³

The schema continues to enumerate the numerous dangers to the faith: first of all, the inexperience and the insufficient spiritual and

¹⁷⁰ H. VORGRIMLER, *Commentary on the Documents of Vatican II*, op. cit., p. 187.

¹⁷¹ Acta et Documenta, series II, vol. II, pars III, pp. 676-738.

¹⁷² Acta et Documenta, series II, vol. II, pars II, pp. 724-738.

¹⁷³ "Ob auctas in dies migrationes tam liberas quam coactas, summa necessitas urgent, ut bono spirituali, morali et sociali emigrantium diligentissime provideatur, ne ipsi, asperitate conditionum vitae aut inopia spiritualis curae confracti, fidei donum amittant". Cfr. Acta et Documenta, Series II, vol. II, pars III, p. 724.

doctrinal formation of the migrants themselves in which they easily fall to prey to atheist propaganda; mixed marriage without the necessary preparation; the distance from one's own family that results in concubinage, adultery, and divorce. These are dangers which are compounded by the lack of pastoral structures that might guarantee the Catholic education of the migrant's children and their proper integration to their new surroundings. There are also the forced assimilation by political authorities without showing any respect for the migrant's proper identity and culture, which induces the migrants to abstain from frequenting their own Christian communities.¹⁷⁴

Again, the document states that the phenomenon of migration must be seen from the perspective of technical and scientific collaboration between diverse nations which may result in human growth. What is detrimental to this is forced or harmful assimilation, and what is favorable is a healthy and tranquil integration which eliminates the mutual distrust between citizens of the country and the migrants, thus resulting in beneficial exchanges and advantages for all.¹⁷⁵

Nevertheless, while it is necessary that the migrant be loyal to his new country of residence, this does not mean that the migrant will abandon his own native country and Church of origin. In fact, each person must maintain the same close relationship with his country of origin and his Bishop.¹⁷⁶

4.1.2.1.3. Art. I: The General Principle of *De Emigrantium Cura*

This article recapitulates the fundamental principles of natural law and the office of the bishops, which were already taught by the Magisterium of the Church; and affirms that the Holy See and the Bishops must have a diligent care for migrants.

It condemns the totalitarianism and excessive nationalism of the totalitarian states who trample upon the natural rights of migrants and

¹⁷⁴ Acta et Documenta, series II, vol. II, pars III, p. 724.

¹⁷⁵ Acta et Documenta, series II, vol. II, pars III, p. 725.

¹⁷⁶ Acta et Documenta, series II, vol. II, pars III, p. 725.

who forbid the right of their own citizens to emigrate, and who pull them away from their own families.

It reaffirmed the right of the emigrant families to their own vital space and the right to the equal distribution of the earth's wealth, and their duty to preserve their own rites in receiving the sacraments and the Word of God through their own priests who speak their language. Lastly, it praises in a special way the priests who take up the responsibility for the care of migrants.¹⁷⁷

4.1.2.1.4. Art. II: Practical Norms of the *De Emigrantium Cura*

This article is divided into three parts. The first part regulates the activities of external migration with 24 norms; the second regulates the activities of internal migration and has 11 norms; the third with 4 norms regulates the temporary migration. Let us specifically take a glance at these practical norms.

4.1.2.1.4.1. Concerning External Migration

The Ordinaries of the place must carry out the norms of *Exsul familia* and create an awareness to *sensum catholicitatis* for the candidates to priesthood regarding the care of migrants. It extends the faculty for the care of migrants to the second degree in the direct line. It also wants the institution of an episcopal commission for every interested nation in relation to the phenomenon of migration and also a national director for the work of migrants.

In addition, the document prescribes the establishing of a diocesan committee and parish sub-committee for the migrants. It recommends that priests be sent to countries of immigration wherein the phenomenon of migration has reached a stable level, who must be able to speak the language of the migrants. Pastoral structures, such as personal parishes, mixed parishes or missions with care of souls, must be established where a great number of migrants of the same country or language is evident; a missionary priest of the same language or nation should be

¹⁷⁷ Acta et Documenta, series II, vol. II, pars III, p. 726.

appointed as pastor with cumulative and personal jurisdiction. The migrants have the right to school, to form associations and to proper activities. For refugees and exiles, the norms encouraged the creation of a Prelature with personal jurisdiction.

All Christian faithful either *Oriental Rite* or *Occidental rite* whether they are in the territory of migration or in their original territory have the same right in the Church of Christ, which is Catholic and Universal. A diocese for the emigrants of the Oriental Rite in the Latin dioceses and vice versa shall be erected where it is necessary to foster good of souls and Churches. If in some dioceses of the Latin rite, the number of migrants of the Oriental Rite is notable but still insufficient for erecting one's own personal diocese, let a Vicar General be appointed who shall undertake the care concerning them; who, if it is possible shall be of the same rite, otherwise a suitable priest who is knowledgeable or educated in the rite of these migrants.¹⁷⁸

4.1.2.1.4.2. Concerning Internal Migration

The section concerning internal migration includes eleven norms, treating generally the responsibility of the Ordinaries towards this phenomenon, the usefulness of the creation of diocesan offices and their directors, the responsibilities of parish priests both *a quo* and *ad quem*, and finally exhorts local ordinaries to create mission stations for the use of migrants. Let us examine all these provisions in a detailed manner.

In every nation the conference of Bishops should follow the internal migration with great zeal. The bishops should esteem highly questions about internal migration and shall take every care that spiritual and moral help shall be available to faithful who migrate from place of the nation to the other for various reasons. Let the Ordinaries remember that not only individual migrants but also groups or community of migrants have the right of pastoral care. Let the bishops entrust this particular job of internal migration to the diocesan director for emigration in order that these faithful can more easily and aptly be advised.

¹⁷⁸ Acta et Documenta, series II, vol. II, pars III, pp. 727-729.

Let the parish priest of the place “from whom” the faithful go out take care that they may be helped spiritually through religious instruction and, as far as possible, through particular courses learn about the conditions of the new life. He should diligently prepare them so that they may not suffer spiritual harm.

The bishops and parish priests “to whom” the migrants go shall study the characteristics, traditions and customs of these faithful and shall have before their eyes the difference of their education and shall attract their minds and souls to gain them more easily for Christ. The parish priest “to whom” shall advise his own faithful to receive those men and women who are coming from outside with fraternal charity.

As soon as the arrival of the migrants come to his notice, the parish priest shall either by himself or through the members of Catholic action take care to visit the migrants as soon as possible and inform them concerning the life and works of the place and teach them whatever seems to be necessary in order that they can insert themselves gradually into the new community; he shall also give them paternal advice concerning any grave dangers of living in that place so that they may diligently avoid giving their names to sects and associations which are against the Church.

In all the dioceses in which there are great migrations, as far as possible, mission stations shall be established and entrusted to priests originating from the places of the migrants, who shall take care of pastoral action among their co-citizens.¹⁷⁹

4.1.2.1.4.3. Concerning Temporary Migration

Finally, we have four norms concerning temporary migration with respect to work. First of all the workers are highly recommended to the solicitude of the sacred pastors who come from other regions or nations to the diocese. There follows a recommendation to the Ordinaries to provide priests who are of their rite to be at the service of these newcomers. Since they know their language and customs; let them visit the migrants and nourish them with the word of God and sacraments and, if it is possible, let the priests live among them. The document also exhorts

¹⁷⁹ *Acta et Documenta*, series II, vol. II, pars III, pp. 729-731.

the members of the Catholic association to take care diligently that, according to the social doctrines of the Church, the right of the labourers may be observed concerning work, remuneration and habitation, and their dignity, faith and morality shall not suffer any danger. At last it gives further advice to the Ordinaries that through the Catholic Action they also prepare for those who are in the position of departure through and, as far as possible, appoint a priest to accompany them into the place of their residence.¹⁸⁰

4.1.2.2. The Schema “*De Cura Animarum*”: *pars altera* “*De Peculiaribus Quaestionibus Animarum Curam Spectantibus*”.¹⁸¹

This schema treats the pastoral care of migrants in its second chapter, *De Pastoralis Cura Fidelium Migrantium*¹⁸². A brief introduction is followed by five general principles. Its eleven practical norms are treated in the second part. It contains nothing new from the first schema, but is a shortened and brief form because it has been prepared according to the directives of the Central Coordinating Commission. However, for the first time, the schema tries to distinguish the diverse phenomenon of human mobility in this brief form.¹⁸³

For the preservation of rite of the migrants, one of the general principle states that “the rights of the faithful already acknowledged from antiquity, that is, to celebrate the divine function in their own rite and to get sacraments administered in their language and to hear the word of God in their mother tongue are to be protected”.¹⁸⁴

¹⁸⁰ Acta et Documenta, series II, vol. II, pars III, p.731.

¹⁸¹ Schemata Constitutionum et Decretorum ex quibus Argumenta in Concilio Disceptanda seligentur, series III, 1962, pp. 91-190, (henceforth, Schemata Constitutionum et Decretorum).

¹⁸² Schemata Constitutionum et Decretorum, series III, pp. 162-174.

¹⁸³ Schemata Constitutionum et Decretorum, series III, pp.168-173.

¹⁸⁴ Schemata Constitutionum et Decretorum, series III, p. 163.

4.1.2.3. Decree Concerning “*De Cura Animarum*”

The schema treats the migrants in the fourth chapter called *De Pastoralis Cura Peculiarium Quorundam Fidelium Coetuum*¹⁸⁵ in two numbers, precisely in 47 and 48, number 47 is dedicated to an introduction, and number 48 specifically treats the argument *De Fidelium Migrantium Cura pastoralis*.¹⁸⁶

The introduction of this schema introduces a new concept regarding migrants. It underlines the obligation of pastors to have particular concern towards this faithful who “on account of their particular condition of life, cannot make use of the ordinary pastoral care of their own pastors”.¹⁸⁷ The categories of the faithful are specifically mentioned in the following words: “many of them are *Migrants* who on account of their necessary sustenance and work or for some sad conditions of their own nation or even religious persecutions are forced to leave their own native country and come to other regions or cities, in which the people speak other languages and sometimes they don’t profess the Catholic faith”(n.47).¹⁸⁸ At the end of the introduction it commands the drawing up of a special pastoral directory according to the particular situation of each nations or regions, following the direction of the same Council.¹⁸⁹

Number 48 of the decree specially emphasizes the grave obligation of bishops and parish priests towards these faithful. Let us see the main arguments of this number as follows:

The natural right of men and families for migrating according to their will cannot be restricted unjustly or abrogated according to the desires of totalitarianism or imperialism or immoderate nationalism.

Bishops and parish priests should not only diligently see to the spiritual good of the migrants and if it can be done also for their social good. They should

¹⁸⁵ Acta Synodalia, vol. II, pars IV, pp. 767-768.

¹⁸⁶ Acta Synodalia, vol. II, pars IV, p. 768.

¹⁸⁷ Acta Synodalia, vol. II, pars IV, p. 767.

¹⁸⁸ “Quamplurimi enim sunt *migrantes*, qui ob victus, vitae ac laboris necessitates vel ob tristes suae nationis condiciones ac vel etiam ob vexationes religionis causa obortas, patrium locum derelinquunt, et regiones vel civitates adeunt, in quibus populus alia lingua loquitur et quandoque fidem catholicam non profitetur.” Cfr. Acta Synodalia, vol. II, pars IV, p.767.

¹⁸⁹ Acta Synodalia, vol. II, pars IV, p. 768.

not induce in any way any migrant to take up another rite but also should take care that the word of God is announced to them in their own language and similarly that they may be able to use the same language for the reception of sacraments.

For the good of migrants particular diocesan committies and parish committies must be established; especially in nations in which many used to be migrants a special Commission of Bishops must be established so that the activity for migrant may be better organized and proceeded jointly.

A general norm should be observed always and everywhere that the missionaries may be appointed by the local Ordinary for the migrants with personal jurisdiction and personal parishes may be legitimately established for migrants of the same nations or of the same language or of the same rite where great multitudes exist.¹⁹⁰

4.1.2.4. “*De Cura Animarum*”: Appendix Sexta “*De Pastoralis Cura Peculiarium Quorundam Fidelium Coetum. Praecipuae Normae Referendae in Directorium Generale*”.¹⁹¹

The article of this section bears the title *De Pastoralis Cura Fidelium Migrantium*.¹⁹² The first part is divided into three sections, namely: an introduction, general principles, and practical norms. Let us see only the novelty of the introduction. It says, “with the Apostolic Constitution *Exsul Familia*, the Holy See has promoted and regulated the pastoral care of migrants. The norms, nevertheless, are reviewed and accommodated according to the new circumstances of the phenomenon of migration and in the sense that every single Bishop and Episcopal Conference has to assume them with serious responsibility”.¹⁹³ After this novelty, then, it gives the precise concept of *migrants* and its other categories. It continues:

By the term *migrants* we understand precisely those who have left the fatherland either temporarily or permanently, for reasons of livelihood, or for

¹⁹⁰ Acta Synodalia, vol. II, pars IV, p. 768.

¹⁹¹ Acta Synodalia, vol. II, pars IV, pp. 811-819.

¹⁹² Acta Synodalia, vol. II, pars IV, pp. 811-814.

¹⁹³ Acta Synodalia, vol. II, pars IV, p. 811.

other demands of life, for jobs, or because of the sorrowful conditions in the country or because of religious persecutions.

Since migrations of men, either external or internal, whether permanent or temporary, either free or under force, are on the increase day by day, and concern all nations and people around the globe, the sacred pastors should consider the problem of migration seriously and procure to the spiritual good of the children and to their social welfare and give the necessary counsel.

This should be done so that they may feel and experience everywhere the charity of the Church, the more immediately and effectively, the more they are in need of her care and help.¹⁹⁴

4.1.3. Different Stages of Council Discussions

For the discussion at the Council Hall only the unified schema of the *De Pastoralis Episcoporum Munere in Ecclesia*¹⁹⁵ was reached after the various redactions of the previous schemata. In particular, we have three additional redactions of this schema: the *textus prior*, the *textus emendatus*, and finally the *textus recognitus*.

4.1.3.1. The *Textus Prior*

In this relatio all the categories of human mobility were placed under the same concept of migrants who need the particular solicitude of the Church according to the condition of their life. This text has appeared in the second chapter of the first section of the schema under the title *Quorundam Fidelium Coetuum Singularis Sollicitudo*¹⁹⁶ in n.18 of the *De Episcopis Peculiares Seu Dioeceses*. Thus the new modified form of the *Textus Prior* reads as follows:

Peculiaris sollicitudo habeatur fidelium, qui ob vitae condicionem communi ordinaria parochorum cura pastoralis non satis frui valent aut eadem penitus carent, uti sunt quamplurimi migrantes, maritimi sicut et aeronavigantes, nomades alique id genus.¹⁹⁷

¹⁹⁴ Acta Synodalia, vol.II, pars IV, p. 811.

¹⁹⁵ Acta Synodalia, vol. III, pars II, pp. 22-44.

¹⁹⁶ Acta Synodalia, vol. III, pars II, p. 29.

¹⁹⁷ V. DE PAOLIS, "La Pastorale dei Migranti" art. cit., pp. 251-253; *Commentary on the Documents of Vatican II*, ed., H. VORGRIMLER, vol.II, p. 191.

In a similar way section two has the subtitle *Regulae Servandae*, n. 21 of the *Dioecesium Circumscriptio*, we see another recommendation for the bishops as to how they should provide pastoral care for the Oriental migrants. Regarding this part of n.21, no contrary opinion arose on the part of the Council Fathers at the time of its relatio.¹⁹⁸ However, among the Council Fathers three of them spoke on the basis of schema 1963 and proposed their suggestions.¹⁹⁹ As a result we read the text as follows:

Hunc quoque in finem, ubi sint fideles diversi ritus, eorum spiritualibus necessitatibus Episcopus dioecesanus provideat, sive per sacerdotes aut paroecias eiusdem ritus, sive per Vicarium Episcopalem aptis facultatibus instructum et, si casus ferat, etiam charatere episcopali ornatum, sive per seipsum diversorum rituum ordinario munere fungentem. Quod si haec omnia, ob rationes peculiares, iudicio Apostolicae Sedis, fieri non possint, Hierarchia propria pro diversitate rituum constituatur.

Item, in similibus circumstantiis. diversi sermonis fidelibus provideatur sive per sacerdotes aut paroecias eiusdem sermonis, sive per Vicarium Episcopalem sermonem bene callentem et etiam, si casus ferat, charactere episcopali ornatum, sive denique alia opportuniore ratione.²⁰⁰

¹⁹⁸ Acta Synodalia, *Relatio circa chapter IV of "Schema Decreti Episcopis ac de Dioecesium Regimine"*, vol. II, pars IV, Typis Polyglottis Vaticanis, 1972, pp. 364-382.

¹⁹⁹ Bishop Aloisii M. Carli said: "Providetur erectioni dioecesium personalium ratione ritus, quod valet sive pro Ritibus Orientalibus in Occidente sive pto Ritibus Latinis in Oriente. For Arch. Mauritius Card. Feltin, "Similiter dioeceses personales erigendae sunt pro certis fidelium generibus, a S.Sede determinandis, quando, quacumque ex causa, per iurisdictionem localem eorum bono provideri non potest.

According to Bishop Sebastianus Soares de Resende, "Criterium principale et unicum in divisione et erectione dioecesium habeatur tantum maior efficacia salutis animarum. Acta Synodalia, *Relatio circa Cap.IV*, vol. II, pars V, Typis Polyglottis Vaticanis, 1973, pp. 213, 215, 226.

²⁰⁰ Likewise for the improvement of ministry, where there are faithful of a different rite, the diocesan bishop should make provision either through priests or parishes of the same rite or through an episcopal vicar with the appropriate faculties and, where circumstances call for it, with episcopal rank. Alternatively, the diocesan bishop himself may exercise the function of ordinary for different rites. For exceptional reasons, none of these measures may, in the judgment of Apostolic See, be feasible. In this case, a special hierarchy should be set up for the different rites.

Again, in the circumstances, provision should be made for the faithful of different language groups either through priests or parishes speaking their own language, or through an episcopal vicar well versed in the language and, where it seems advisable, with episcopal rank. If these proposals cannot be put into effect, some other more practicable solution should be found. Acta Synodalia, vol. III, pars II, pp. 30-31.

4.1.3.2. *The Textus Emendatus*

In the General Congregation discussion the Council Fathers asked for the involvement of the responsibility of Episcopal Conferences in the pastoral care of migrants.²⁰¹ As a result the Commission inserted a new paragraph in the *Textus Emendatus*.

Episcoporum Conferentiae, praesertim Nationales, urgentioribus quaestionibus ad praedictos spectantibus sedulo studeant, et aptis instrumentis ac institutionibus spirituali eorum curae, concordii voluntate viribusque unitis consulant atque faveant, attentis in primis normis ab Apostolica Sede statutis vel statuendis, temporum, locorum et personarum condicionibus apte accommodatis.²⁰²

But, the n.21 of the previous schema remained without any change in the *Textus emendatus* as well. But the number of the schema was changed, n.21 became n.23.²⁰³

4.1.3.3. *The Textus Recognitus*

According to the desire of the Council Fathers this final text finished with a short *Resolutio* of the above-stated two paragraphs. With respect to the *textus emendatus*, the *textus recognitus* contains two more categories of migrants, the so-called exiles and refugees. The reason for this addition in the *textus recognitus* was that it treats the “categories of persons suffering persecution for justice sake”.²⁰⁴ They were recognized in the general principle of the Council as those, who “due to sad conditions in their own countries and due to religious discrimination, are forced to leave their native lands, either temporally or permanently”.²⁰⁵ The final *textus recognitus* appears as follows:

²⁰¹ “De sententia trium Patrum specialia quaedam dicenda essent de migrantibus, et affirmanda (sic!) esset officium quo tenentur Episcoporum Conferentiae ut huic quaestioni studeant. Commissio aestimavit huic voto esse satisfaciendum, ita tamen ut Conferentiarum officium se extendat ad urgentiores quaestiones, non solum de emigrantibus, sed etiam de aliis fidelibus coetibus, qui supra in textu eiusdem n. 18 nominantur. Ideo addendam esse decrevit notam aliam in fine huius n.18. Acta Synodalia, vol. III, pars VI, Typis Poliglittis Vaticanis, 1975, p. 169; H. VORGRIMLER, *Commentary on the Documents of Vatican II*, vol. II, op. cit., pp. 93-194; V.DE PAOLIS, “La Pastorale dei Migranti”, art. cit., p. 253.

²⁰² Acta Synodalia, vol. III, pars VI, p. 140.

²⁰³ Acta et Synodalia, *Textus Emendatus et Relationes*, vol. III, pars VI, pp. 143-144.

²⁰⁴ Acta Synodalia, vol. VI, pars II, p. 568.

²⁰⁵ Acta Synodalia, vol. VI, pars II, p. 538.

Peculiaris sollicitudo habeatur fidelium, qui ob vitae condicionem communi ordinaria parochorum cura pastorali non satis frui valent aut eadem penitus carent, uti sunt quamplurimi migrantes, exsules et profugi, maritimi sicut et aeronavigantes, nomades alique id genus. Aptae methodi pastorales promoveantur ad vitam spiritualem fovendam eorum qui relaxationis causa ad tempus alias regiones petunt.

Episcoporum Conferentiae, praesertim Nationales, urgentioribus quaestionibus ad praedictos spectantibus sedulo studeant, et aptis instrumentis ac institutionibus spirituali eorum curae, concordī voluntate viribusque unitis consulant atque faveant, attentis in primis normis ab Apostolica Sede statutis vel statuendis, temporum, locorum et personarum condicionibus apte accommodatis.²⁰⁶

As in the *textus emendatus*, the text of n.23 remained unchanged in the *textus recognitus*²⁰⁷ too. It appeared in chapter two, part two, with the same subtitle *Regulae Servandae*, n. 23 of the *Dioecesium Circumscriptio*.

Observation

The most important passages from a pastoral point of view given at nn. 18 and 23 of the decree *Christus Dominus*, which aimed at bringing into focus the condition of the Church in the modern world, took special note of the increasing phenomenon of geographic mobility, ethnicity, urbanization, nationalism and cultural pluralism. Thus this decree wanted to express the Church's concern for all groups of faithful in the Universal Church. Accordingly the text reads:

Special concern should be shown for those members of the faithful who, on account of their way of life are not adequately catered for by the ordinary pastoral ministry of the parochial clergy or are entirely deprived of it. These include the many migrants, exiles and refugees, sailors and airmen, itinerants and others of this kind. Suitable pastoral methods should be developed to provide for the spiritual life of people on holidays.

Conferences of Bishops, and especially national conferences should give careful consideration to the more important questions relating to these categories. They should determine and provide by common agreement and

²⁰⁶ Acta Synodalia, vol. VI, pars II, p. 538.

²⁰⁷ Acta Synodalia, *Textus Recognitus et Modi*, vol. IV, pars II, pp. 541-543.

united effort suitable means and directives to cater for their spiritual needs. In doing this they should give due consideration especially to the norms determined, or to be determined by the Holy See, adapting them to their own times, places and people (n.18).

With the help of this passage the Council marked an important step forward in the pastoral care of migrants, especially in the new view with which it faced the various ecclesiological problems. To give adequate pastoral care for these groups the most important element wanted by the Council is the spirit and mentality in which the norms are interpreted and put into practice. Commenting on the above-mentioned paragraph, Father V. De Paolis said:

i. It speaks of diverse categories of persons involved in the phenomenon of people on the move, and a unifying element is understood: ‘...on account of their way of life (they) are not adequately catered for by the ordinary pastoral ministry of the parochial clergy or are entirely deprived of it.’

ii. The Episcopal Conferences are also involved. It is acknowledged that there is no way in which an individual Bishop could have at his disposal all the possibilities of a solution to the problem. The idea that the problem and its solution should be centralized by the Holy See is discreetly dropped.

iii. What is being asked is a particular concern and interest, an earnest attention to the problem, appropriate or opportune means and directives, harmony in the aims and endeavors--everything has religious assistance as an end.

iv. The norms already given or to be determined by the Holy See are to be the directive principles; however, there must be that flexibility which will permit adaptation to the various situations of the times, places and persons. This reference (‘norms given’) to the Apostolic Constitution *Exsul Familia* is evident, as well as the reference to the necessity of its revision (‘norms to be given’).²⁰⁸

As a logical consequence of n.18 of the decree *Christus Dominus*, the Council further to emphasizes the importance of the special solicitude towards the members of various rites in the same territory of a diocese which the hierarchs of the majority rites ought to have for the faithful of

²⁰⁸ V. DE PAOLIS, “The Pastoral Care of Migrants”, art. cit., p. 125.

the minority rites, therefore, n.23 of the same conciliar document gives the following guidelines:

Likewise for the improvement of ministry, where there are faithful of a different rite, the diocesan bishop should make provision either through priests or parishes of the same rite or through an episcopal vicar with the appropriate faculties and, where circumstances call for it, with episcopal rank. Alternatively, the diocesan bishop himself may exercise the function of ordinary for different rites. For exceptional reasons, none of these measures may, in the judgment of Apostolic See, be feasible. In this case, a special Hierarchy should be set up for the different rites.

Again, in the circumstances, provision should be made for the faithful of different language groups either through priests or parishes speaking their own language, or through an episcopal vicar well versed in the language and, where it seems advisable, with episcopal rank. If these proposals cannot be put into effect, some other more practicable solution should be found" (CD n.23).

4.2. The Decree *Orientalium Ecclesiarum* and Preservation of Particular Churches

4.2.1. A General View

Like most of the Council texts, the Decree on Eastern Catholic Churches underwent several transformations before it attained its final form. In the normal procedure for the preparation of schema, in 1959 the *Commissio ante-praeparatoria*, headed by Cardinal Tardini, sent an invitation to all and asked the delegates to submit their proposals and resolutions for the Council. Many bishops from Uniat Oriental Churches responded to this invitation personally, but the Melkite Synod made the most detailed and systematic proposals from its part.

Again in the middle of 1960 the Pope nominated an Oriental Commission headed by Cardinal Cicognani. Its main function was to work out pertinent subjects on the basis of these resolutions, such as changes in rite; *communicatio in sacris*; reconciliation with Orthodox Orientals, in addition to the most important disciplinary questions. So the Commission divided the work into seven sections and accomplished it in 1960/61 in 56 plenary sessions, presenting at the close of their work the schema *De Ecclesiae Unitate* "ut omnes unum sint" with 52 articles.

Later, after study and discussion, the Central Commission Secretariat decided that the schema *De Ecclesiae Unitate* “*ut omnes unum sint*” was not in a position to be treated in the Council. So it was almost eliminated from the Council. But, soon after the inauguration of the Council, the Preparatory Commission handed over their task to the newly-formed Council Commission, of which the president and secretary remained the same as the Preparatory Commission. Gradually, the Pope gave representation to all the Oriental Churches in the Commission, most of whom were their heads, especially the six patriarchs. After the reorganization of this newly-formed Commission, the work of the Commission was not progressing because although the prerequisites for due consideration of all viewpoints had been created, this combination was not able to facilitate the work. In addition, it created strong official preoccupations about the work and time, because these members could attend only two common sessions of the entire Commission outside the Council sessions.

As in the case of other decrees of the Council the pressure of the time forced an abridgment and preparation of a new schema. According to the instruction of the Central Commission, some of the experts prepared a new schema *Decreti De Ecclesiis Orientalibus* of 1962, second part and sent it to the members for their comment. During this period a Co-ordinating Commission was formed with its president also the president of the Council Commission, and decreed further abridgment for the above-stated schema. Again some *periti* undertook the new task and prepared a new schema called *Decreti De Ecclesiis Orientalibus* of 1963 together with a second part under the title *De Unione Christianorum*, and once more sent for comments. This was a selection from the above-mentioned schema *De Ecclesiae Unitate* “*ut omnes unum sint*”. Meanwhile, the Co-ordinating Commission had once again decreed, on 23 January 1964, a drastic abridgment of all the schemata not yet treated in the plenary session. Therefore, the secretariat of the Commission together with some *periti* again discharged this work, whereby the 54 articles of the schema were compressed into a total of 29, forming the schema *Decreti De Ecclesiis Orientalibus* of 1964. On 27 April 1964 it was sanctioned by the Pope for submission to the Fathers and sent to them. By the beginning of the third session of the General Council many

proposals arrived on the basis of the latest schema. These were treated by the Commission. However, no text was printed for discussion and for the Council Fathers, but only the alterations approved by the Commission, which were distributed to the Fathers on an additional sheet.

The General Congregation discussed this latest schema on 15, 16, 19 and 20 October 1964. As a result, except for numbers 2-4, all the parts of the Decree obtained the required two-thirds majority on 21 and 22 October 1964. On 20 November 1964, the articles 2-4 of the schema were again presented to the General Congregation in a new version; it was accepted and obtained the required majority. The Decree as a whole was approved with a large majority. Finally, the text of the decree on the Eastern Catholic Churches, passed by the Council on 21 November 1964, was approved and promulgated by Pope Paul VI on the same day.²⁰⁹

4.2.2. Preparatory Stage

The decree on Eastern Catholic Churches underwent several transformations. In order to understand the definitive text, particularly the art. 4, it is useful to go through the main schemata, that is, from the schema *De Ecclesiae Unitate* to the final decree *De Ecclesiis Orientalibus Catholicis*.

4.2.2.1. Schema *Decreti De Ecclesiae Unitate* “*Ut Omnes Unum Sint*”

According to the Pope's direction the Oriental Commission prepared this schema on the basis of the resolutions and proposals received from the bishops and other organs of the Catholic Church, such as Oriental Congregation, Catholic Institutes, etc.²¹⁰ However, the Commission was to work out the following points: a) changes in the rite; b) *communicatio in sacris*; c) reconciliation with Orthodox Orientals, and d) the most important disciplinary questions.²¹¹ The work of this Commis-

²⁰⁹ AAS 57 (1965) 76-89.

²¹⁰ Acta et Documenta Concilio Oecumenico Vaticano II, Apparando, Series I, vol. II, pars II, IV, V, VI; vol. IV, pars I and II.

²¹¹ JOHANNES M. HOECK, “Decree on Eastern Catholic Churches”, in *Commentary on the Documents of Vatican II*, vol. I, New York, 1967, p. 307.

sion was divided into seven sections and was accomplished in the year 1960-1961, with the result of the schema *De Ecclesiae Unitate "Ut Omnes Unum Sint"*.²¹²

After examination and study, however, the Central Commission Secretariat on 27 November 1962 made a declaration in the General Congregation and asked to have another schema prepared, because the original documents was not in a position to be treated in the Council.²¹³ Thus, the first schema of *De Ecclesiae Unitate "Ut Omnes Unum Sint"* was eliminated.

4.2.2.2. Schema *Decreti De Ecclesiis Orientalibus* of 1962

The schema of 1962 was prepared by some of the experts according to the directions duly given by the Central Commission and, later, having been approved in the plenary session of 22-24 April 1961, was sent to the Fathers for comment. It comprises an introduction and five chapters together with 53 articles. The portion regarding the preservation of rite appeared in the first chapter *De Ritibus in Ecclesia* n.8. under the heading of *De Ritibus Orientalibus extra regiones orientales*. It reads as follows:

Provideatur ubique terrarum tuitioni atque incremento omnium rituum sive erigendo paroecias pro variis ritibus sive constituendo pro quoque ritu

²¹² Acta et Documenta Concilio Oecumenico Vaticano II, Praeparatoria, vol. II, Pars IV, Typis Polyglottis, 1968, pp. 436-449.

²¹³ The reasons for the elimination are: "Ad praecavendas obiectiones quae ad textum hunc non faciunt, ne locus fiat confusioni et ne tempus inutiliter teratur, haec tria adnotanda sunt:

1. Bene quidem titulus ut omnes unum sint mutari posset, ut appareat clare documentum unice ad Orientales referri et non ad alios christianos non catholicos.
2. Ea quae ex dogmate in prima parte proferuntur *de Ecclesia*, non exhibentur directe ad affirmandam seu demonstrandam eiusdem constitutionem; sed semper ad finem illustrandi reales condiciones quae ortae sunt ex orientalium christianorum separatione. Ob hanc rationem doctrina praemittitur quae fundamentum praebeat mediis in secunda schematis parte propositis. Ideo nullum praeiudicium ponitur iis argumentis quae in constitutione *de Ecclesia* disceptabuntur.
3. Decretum dirigitur directe ad omnes filios Ecclesiae Catholicae ut media apta in decreto exposita adhibeant ad fovendam et assequendam unionem cum fratribus separatis Orientalibus". Cfr. *Acta Synodalia*, Congregatio Generalis: Declaratio Commissione de Ecclesiis Orientalibus, vol. I, pars III, pp. 614-615.

propriam hierarchiam, ubicumque id postulat numerus atque bonum spirituale fidelium.²¹⁴

4.2.2.3. Appendix prima: De Ecclesiis Orientalibus, “Schema Decreti De Ecclesiis Orientalibus” of 1963

The pressure of time again forced the Committee to abridge and to prepare another schema. As a result, even before the answers of the Fathers poured in, the Co-ordinating Commission decreed a further abridgment at the end of January 1963. According to the instruction of the president of the Commission, a second part with 10 articles was added under the title *De Unione Christianorum* on 29 March 1963 with the permission of the Co-ordinating Commission. As a selection from the schema *De Ecclesiae Unitate*, this had already been discussed and approved in the first session in the assembly, with an injunction that it be revised in accordance with the proposals made in the discussion and combined with two other drafts into a single decree *De Oecumenismo*. However, the result did not work out as planned. Later, it appeared as a second part in the decree on Eastern Catholic Churches.²¹⁵ Therefore, the schema is divided into two parts with five subtitles together with an introduction for each. They are *De Disciplina Ecclesiarum Orientalium*²¹⁶ and *De Unione Christianorum Orientalium*.²¹⁷

In this schema, the article relevant to our discussion appeared in the first part, first section, *De Ecclesiis Particularibus* n.5 with a little modification of the former article n.8, that is, instead of *omnium Ecclesiarum particularium* the expression used was *omnium rituum* and instead of *ritus*, came *ecclesia*. The reason for extending this principle was that the schema intended to cover both the Latin Church and the Oriental Churches. Thus the consequences of a general teaching had also a general and universal import. Thus we read as follows:

Provideatur ubique terrarum tuitioni atque incremento omnium Ecclesiarum particularium, sive erigendo paroecias pro variis Ecclesiis, sive constituendo

²¹⁴ Schemata Constitutionum et Decretorum, ex quibus argumenta in Concilio disceptanda seliguntur, Series quarta, Typis Polyglottis Vaticanis, 1962, p. 6.

²¹⁵ J.M. HOECK, “Decree on Eastern Catholic Churches”, art. cit., p. 309.

²¹⁶ Acta Synodalia, vol. III, pars V, pp. 743-754.

²¹⁷ Acta Synodalia, vol. III, pars V, pp. 754-758.

pro una quoque Ecclesia propriam hierarchiam, ubicumque id postulat numerus atque bonum spirituale fidelium, et quantum fieri potest.²¹⁸

4.2.2.4. Schema Decreti *De Ecclesiis Orientalibus* of 1964

This is the very shortened and brief form prepared in obedience to the directions of Central commission. This schema comprises an introduction together with five separate headings. With regard to our point, it was fully preserved and in a form almost identical to that of the previous text and the definite text which was appeared under the first heading *De Ecclesiis particularibus*. The only change was that the expression *et quantum fieri potest* was finally omitted. The text reads:

Provideatur igitur ubique terrarum tuitioni atque incremento omnium Ecclesiarum particularium, ac propterea constituentur paroeciae atque propria cuiusque hierarchia, ubi id postulat bonum spirituale fidelium.²¹⁹

4.2 2.5. The *Textus Emendatus* and the *Textus Iuxta Modos Recognitus* of the General Congregation

Actually the *textus emendatus*²²⁰ and the *textus iuxta modos recognitus*²²¹ have no differences, the text *iuxta modos*²²² appearing as the *textus emendatus*²²³. But the *textus emendatus* left out only one word *cuiusque* from the last schema of 1964. Therefore, the final text appears as follows in n.4 of both texts:

Provideatur igitur ubique terrarum tuitioni atque incremento omnium Ecclesiarum particularium ac propterea constituentur paroeciae atque propria hierarchia, ubi id postulat bonum spirituale fidelium.²²⁴

²¹⁸ Acta Synodalia, vol. III, pars V, p. 744.

²¹⁹ Acta Synodalia, vol.III, pars IV, p. 486.

²²⁰ Acta Synodalia, vol. III, pars VIII, pp. 606-620.

²²¹ Acta Synodalia, vol. III, pars VIII, pp. 837-845.

²²² Acta Synodalia, vol.III, pars VIII, p. 838.

²²³ Acta Synodalia, vol. III, pars VIII, 608.

²²⁴ Steps should therefore be taken for the preservation and enlargement of all the particular churches throughout the world, and so parishes and their own hierarchy should be set up wherever the spiritual good of the faithful requires it.

4.2.3. The Juridical Structures for the Protection of Particular Churches

Here there are two structures or means indicated for the preservation of these Churches: the *erection of parishes* and the constitution of the *proper hierarchy* of a determine particular Church or Rite. Both depend upon the same condition, namely if the spiritual good of faithful requires it. Sufficient number of the faithful is a just reason for the erection of parishes and of a hierarchy.

Moreover, on the basis of the decree *Orientalium Ecclesiarum*, the concept of a particular Church is built upon the indication of its elements (OE, n.3), which may be divided into two classes. They are the common elements found in any particular Church or Rite and the constitutive elements, which differentiate one particular Church from another.

4.2.3.1. The Common Elements

The common elements are those elements belonging to all the faithful of the Universal Church. Not only do the individual faithful of the Universal Church have these elements, but particular Churches as parts of the Universal Church likewise possess them, namely same faith, the same sacraments and the same government (OE, n.2).

4.2.3.2. The Differentiating Elements

The differentiating elements are those which constitute the particular Church as particular, that is, one different from another. These elements are:

- a. the group of faithful held together by a hierarchy.
- b. the group of faithful with its own liturgy.
- c. the proper ecclesiastical discipline.
- d. a proper spiritual patrimony or heritage, which are, for example, its own theological system and expressions, a special kind of spiritual and monastic life, a special kind of ecclesiastical art, music, customs and practices.

Observation

The most important aspect which the Decree intends to express is care for the protection and growth of all the particular Churches. From the first part of the above-quoted passage we understand that the particu-

lar Churches ought to be protected and defended from everything that could harm them and at the same time allowed to grow, develop, and reach their proper perfection. With reference to the Decree *Ad Gentes*, especially chapter 3, the whole of *Optatam totius*, as well as the Decree *Presbyterorum Ordinis*, Father Clement Pujol made the following remarks about the necessity of the increase of the Churches in addition to their protection:

The Decree aims precisely at this, in which, besides protection, the increase of the Churches is also mentioned. This increase may be considered intrinsic or extrinsic. The first aims at assuring that each particular Church reaches an ever greater internal perfection or an internal disposition ever more appropriate to that Church's proper mission. This disposition is to be attained by utilizing all the necessary means at its disposal, by the appropriate increase in number and capacity of the works and personnel, in order to fulfil its proper role, its proper duty and mission to provide for the spiritual welfare of its faithful. Several things are involved here: increase and betterment of the seminaries, of the schools of every kind, more careful formation of priests and of religious of both sexes, the increase of apostolic activities, a more active lay apostolate, increase and improvement of the parishes and dioceses, etc.²²⁵

About the extrinsic increase he continues:

If, however, this internal increase does not proceed hand in hand with the external or extrinsic increase, it would be unsatisfactory and could even prove harmful. Hence it is necessary that the increase be also extrinsic; that is to say, that each particular Church be able to extend the territorial reach of its activity, whenever it is necessary or suitable, without being obliged to remain enclosed in a certain territory. This supposes that it has the possibility and the means to organize itself also outside its own territory, in order to pursue its mission to look after the welfare of its faithful, wherever they might be.²²⁶

From these two points of views, we may understand the importance of not only the protection, but also the increase of each Church. All the Decrees issued by the Council, especially those on the Bishops, the Priests, the Seminaries and on Religious, lead to this same goal. In other words, these Decrees are directed to the evangelical and apostolical

²²⁵ CLEMENT PUJOL, "The Care and Organization of the Particular Churches", in *The Malabar Church*, edited by JACOB VELLIYAN, Roma, 1970, p. 213.

²²⁶ PUJOL, "The Care and Organization", art. cit., p. 216.

mission of the Church in order to procure for her an ever greater perfection, both internal and external.

By this text, the Council makes it clear that the preservation of the particular Churches is to extend and should be promoted throughout the whole world. The words "*ubique terrarum*" signify the very reality of the Council's intention. Furthermore, this is not restricted to any one particular *Ecclesia sui iuris*, but the expression "*omnium ecclesiarum particularium*" refers to all *Ecclesiae sui iuris*.²²⁷ The intention of the proposed schemes prepared by the Commission was meant only for the preservation of the Oriental Churches; however, later the Council discussion, it was decided that this principle had to embrace all particular Churches in the Catholic Church.²²⁸

The principle of the expansion and preservation of the particular Churches is based on the *bonum spirituale fidelium*, an expression, "the spiritual good of the faithful" which is, at one and the same time, the reason for both the universal amplitude of the present Conciliar prescription and its limitation. Where the spiritual good of the faithful does not call for the organization of a particular Church in question in a given territory, there will be no reason for it to do so, nor will it be for its good."²²⁹ Thus, the erection of above-mentioned particular Churches is mainly dependent on the condition of the spiritual good of the people, i.e., that otherwise would be neglected.

One of the principal reasons for the insertion of this article in the Decree is nothing less than the present-day strong Oriental Migration itself. The Council Fathers studied and discussed all the difficulties in the

²²⁷ The Preparatory Commission for the Decree on Oriental Churches had in its plenary session of 22-24 April 1961, approved a text almost identical to the one later passed by the Council. The only differences from the final text amounted to the following. a) instead of *omnium ecclesiarum particularium* the expression used was *omnium rituum*; b) immediately after the word *rituum* it reads *sive erigendo paroecias pro variis ritibus, sive constituendo pro quoque ritu propriam hieraechiam*; c) besides the spiritual good, the number of the faithful was also taken into account, and so after the word *postulat* it was added *numerus atque bonum spirituale fidelium*. Schema Decreti de Ritibus in Ecclesia, propositum a Commissione de Ecclesiis Orientalibus, 1961, art. IX; PUJOL, "The Care and Organization", art. cit., pp. 209-210.

²²⁸ Schema Decreti De Ecclesiis Orientalibus (1964) art. 4.

²²⁹ PUJOL, "The Care and Organization", art. cit., p. 217.

realm of multiple or several jurisdictions in the same territory. However, “in spite of these understandable misgivings,” they understood that “the difficulties linked with the inter-penetration of several jurisdictions will have to be regarded as the lesser evil, because otherwise for some of the Eastern Churches (about half the members of some of these Churches are immigrants!) there would be an acute danger of loss of vitality and hence of a stunted growth threatening their very existence. Further, there was also the fear that Eastern Catholics living abroad might join the Orthodox sister Churches, who have created exemplary organizations for their groups abroad.”²³⁰

4.3. Other Main Conciliar Texts on the Pastoral Care of Migrants

The principles and norms regarding the pastoral care of migrants were prepared and discussed during the preparations of the Council, but the text was finally abandoned for various reasons. However, the materials which had been prepared were distributed in the various Conciliar Documents, and thus references to the question of migration are to be found in several texts such as the Apostolic Constitution *Gaudium et Spes* and in the decrees *Christus Dominus*, *Apostolicam Actuositatem* and *Ad Gentes*.

4.3.1. *Gaudium et Spes*

The Apostolic Constitution *Gaudium et Spes* contains more references regarding migrants than other documents of the Second Vatican Council. First of all it invites us to become aware of the effects of migration on the life of an individual even in the drastic changes in the modern world. Speaking to the various changes in the social order, the constitution says, “One cannot underestimate the effect of migration on those who, for whatever reason, are led to undertake a new way of life” (n.6).

²³⁰ HOECK, “Decree on Eastern Churches”, art. cit., p. 316; cfr. also PUJOL, “The Care and Organization”, art. cit., pp. 218-219; GEORGE NEDUNGATT, “La Giurisdizione delle chiese particolari,” in *Unitas* 31 (1976-1977) 180-198, 261-285.

Recognizing migration as a personal right of men, Vatican II exhorts that it should not be impugned, although this right is to be taken in the context of one's social responsibility to one's own country (n.65). On the other hand, the constitution also recognizes the right of the State to regulate the movement of migration to their countries for the good of their nation (n.87). Justice and equality allow people to move from one place to another to find better living. The decree also counsels to avoid all kinds of discriminations in regard to work and wages. In a general way, yet at the same time particularly to public authorities, it teaches that no one should treat migrants simply as mere tools of production, but consider them as persons. Besides it also advises authorities to reject all kind of economic positivism (n.66). Seeing the present situation of the refugees and migrants, the constitution recommends to the community of national and international organizations to organize themselves in a manner suited to its present circumstances. It says:

To reach this goal, organizations of the international community, for their part, should set themselves to provide for the different needs of men; this will involve the sphere of social life to which belong questions of food, hygiene, education etc., and certain particular situations arising here and there, as for example a general need to promote the welfare of developing countries, to alleviate the miseries of refugees dispersed throughout the world, and to assist migrants and their families (n.84).

4.3.2. *Apostolicam Actuositatem*

The success of every apostolic activity always depends on the collaboration and cooperation between the parish priest and his community. The people of God must involve themselves in all the apostolic and missionary activities of their ecclesial community. Speaking of this participation, especially the close contact in all fields, the decree says:

Indeed, the people of God will not confine their cooperation within the limits of the parish or diocese, but will endeavor, in response to the needs of the towns and rural districts, to extend it to interparochial, interdiocesan, national and international spheres. This widening of horizons is all the more necessary in the present situation, in which the increasing frequency of population shifts, the development of active solidarity and the ease of communications no longer allow any one part of society to live in isolation. The laity will therefore have concern for the needs of the people of God scattered throughout the world" (n.10).

4.3.3. Ad Gentes

The decree *Ad Gentes* states that the phenomenon of migration provides great opportunity to encounter the faith, dialogue and ecumenism. Therefore, the decree reminds the Episcopal Conferences about the great responsibilities incumbent on their shoulders:

It likewise pertains to episcopal conferences to found and promote agencies which will fraternally receive those who immigrate from missionary territories for reasons of work or study, and which will aid them by suitable pastoral attention. By means of this immigrants who are distant become, in a sense, neighbours, while a wonderful opportunity is offered to communities which have long been Christian to speak with nations, which have not yet heard the gospel, and of showing them the true face of Christ by their own acts of kindness and assistance (n.38).

4.4. The Circular Letter of the Congregation for Catholic Education Concerning Studies on Eastern Churches

Priestly formation is of vital importance to any *Ecclesia sui iuris*. The ecclesial formation of the Christian faithful as well is dependent on the formation of clergy and religious. Therefore, it is the proper right and obligation of the Church to train clerics and other ministers through the establishment and governing of seminaries.²³¹ With regard to the instruction on rites and inter-ritual matters in the field of formation, the Decree *Orientalium Ecclesiarum* says:

All clerics and those aspiring to holy orders are to be well instructed in the rites and especially in practical rules in inter-ritual matters; indeed, the laity should also be taught, in religious education classes, about the rites and their laws (OE n.4).

From the very nature of the decree we know that this statement is not meant for the Oriental Catholics only, but is equally addressed to all Catholics of the Universal Church. Based on this teaching, we must study and examine the main arguments of the instruction of the Congregation for Catholic Education of January 6, 1987, regarding the Study of

²³¹ CCEO can.328; CIC can.232.

Eastern Churches.²³² This letter is addressed to all Cardinals, Bishops, Rectors of Seminaries, Presidents and Deans of Ecclesiastical faculties, Dicasteries of the Roman Curia and various organisms of the particular Churches.²³³ The letter is divided into fifteen paragraphs, and we will now examine the main expositions.

4.4.1. The Impulses behind this Letter

The introductory section of the letter begins with the personal experience of Pope John Paul II, especially his encounters with hierarchs and faithful of Catholic and non-Catholic Oriental Churches in various countries. From this point of view, the instruction comments upon the lack of understanding, which often results from ignorance of the spiritual traditions and values that form part of the heritage of so many Christians of Eastern Europe, the Near East, Africa and India. Quoting from one of John Paul II's Roman Curia discourses²³⁴ the letter affirms these traditions as very necessary for the life and well-being of the whole Church. Therefore, the instruction calls upon everybody to reflect seriously upon this situation in the life of the Church, especially pastors and all who are responsible for the intellectual and spiritual formation of the younger generations of the Church, because "the need for this reflection becomes more urgent if one considers the many developments touching the rela-

²³² The complete text of this circular letter was published in the "*Seminarium*", in English and Italian languages. For the English, cf. Congregatio pro Institutione Catholica, *Seminarium* 3 (1987) 175-180). For a detailed study on this Instruction, please confer JOHN MADEY, "The Relevance of the Study of Eastern Churches for Today", *Christian Orient* 4 (1988) 190-201.

Note, however, that many years previously Pope Pius XI had already mentioned this same issue in his encyclical letter *Rerum Orientalium* on 8 September 1928 [Cfr. AAS XX (1928) 277-288]. Following this letter, the Congregation for Universities and Seminaries issued a series of norms and prescriptions for all Catholic educational institutions on 28 August 1929 and one of the norms says, "Special attention should be given to all the questions and issues pertaining to the Eastern Churches and people during the theological studies." Cfr. S. Congregatio de Seminariis et Studiorum Universitatibus, Litterae "*Quod Catholicis*" AAS XXII (1930) 146-148.

²³³ Regarding to the various Dicasteries of Roman Curia, the letter says, "A complete response to this question would require action by a number of Departments of the Holy See as well as by the proper organisms of the various particular catholic churches" (n.8).

²³⁴ On 28 June 1985, the Holy Father affirmed in his allocution to the Roman Curia that "the Church must learn to breathe again with its two lungs, its Eastern one and its Western One." Cfr. Discourse to Members of the Roman Curia, *L'Osservatore Romano*, 29 June 1985, p.5.

tionship between Eastern and Western Christians which have taken place during the century” (n.1).

4.4.2. Migrants and Pastoral Problems

The *second paragraph* of the Letter makes a general observation about the reason for migration of the Eastern communities, particularly from Eastern Europe and the Near East to Western Europe, Canada, the United States, and to many countries of Latin America and Australia. Speaking to the situation of Africa and India, the Instruction says, “There are some new Eastern communities in Africa and in India alongside the ancient, indigenous Eastern Churches. They are no longer people who are distant cousins. They are the brothers and sisters who now live beside Catholics of the Western tradition throughout the world” (n.2).

Making the general observations about the present situation of these Eastern Catholic migrants, the Instruction shows some problems from the pastoral point of view:

This fact leads to new problems of a pastoral nature, involving Christian education and spiritual formation, religious life in the family, marriages between Catholics of various Rites and between Catholics and Orthodox, pastoral care of isolated groups, etc. (n.2).

Finally, the document makes an appeal to all Roman Catholic pastors to examine their consciences regarding the following questions, “How much is known of the liturgical and spiritual life of the ancient Christian traditions of these new neighbors? Are serious efforts being made to acquire and spread this knowledge and to draw suitable conclusions of a pastoral nature? In some areas, at least, has the presence of these new communities led to renewed misunderstanding and further alienation” (n.2).

4.4.3. Adaptation without Knowing

Nowadays there has been a remarkable growth in eastern publications of different languages, especially of the theological, liturgical and spiritual writings of the Fathers of the Christian East which show great influence in the life of our people. Because of this study and reflection, many religious communities and institutions have already renewed and

others plan a change or renewal in their outlook and their spirituality. However, some questions remain unsolved, e.g:

How far are these treasures from a common tradition becoming properly understood and assimilated by Catholics? Are they sometimes treated in a superficial way, as transitory movements of the moment? Or are serious efforts being made to study them in depth so that they may be legitimate aids to growth in prayer and in individual and communal life? (n.3).

4.4.4. Eastern Churches and Ecumenism

Stressing the immense contribution of Vatican II for the renewal and reform in the Catholic Church, the *fourth paragraph* gives special emphasis to the decree on *Orientalium Ecclesiarum* and its role not only in the life of the Eastern Catholic Churches, but also in the life of the Universal Church. About the Decree on Ecumenism (*Unitatis Redintegratio*, chapter 3), the same paragraph says, “the Council developed its understanding of the many Christian treasures from a common tradition which Catholics still share with Orthodox despite the fact that, at present, there is not full ecclesial communion between them” (n.4). In achieving this ecclesial communion, the Eastern Catholic Churches have a greater obligation than the Universal Church. On this account, the decree on Oriental Churches states:

The Eastern Churches in communion with the Apostolic See of Rome have the special duty of fostering the unity of all Christians, in particular of Eastern Christians, according to the principles laid down in the decree of this holy council, ‘On Ecumenism,’ by prayer above all, by their example, by their scrupulous fidelity to the ancient traditions of the East, by better knowledge of each other, by working together, and by a brotherly attitude towards persons and things (OE n.24).

4.4.5. The Relevance of Study on Tradition and the Enrichment of Faith

The *fifth paragraph* of the document stresses the importance of genuine and profound study on the tradition of the Church, without ignoring the particular traditions of the various Christian churches. The study of the traditions of the first centuries shows that despite great variety in forms of expression and in language, there existed a wonderful spiritual communion. Therefore, these studies enable Catholic theolo-

gians and teachers to enrich their knowledge regarding the doctrines of our Faith. The document point out: “By returning to the essential sources of the faith, the theologian who belongs to a particular church not only enriches himself through this experience of the <<others>>, but also, through this method, returns to his own roots.... Studied in this wide historical context, the teachings of the faith are better understood because they are seen as rising out of a truly living environment” (n.5)

4.4.6. Eastern Churches: Model of Inculturation

Admitting the rich experience of the Eastern Churches in the field of inculturation, that is, “knowing how to plant the message of the Gospel in the native soil of the genuine traditions of the various people”, the *sixth paragraph* advises all who are engaged in this field to avoid superficial adaptation which may only harm the process and perhaps even deform the Faith itself. Therefore, it exhorts them to study and follow the methods of the Eastern Churches which can serve as an example and guide for this process today. Similarly, it encourages scholarship, stating that “the comparative study can be useful also in other fields of theological and pastoral reflection, such as liturgical renewal and adaptation, canonical discipline (especially that touching upon the relationship between various communities), as well as church history (particularly where it touches upon what unites Christians, what brought about their divisions and what may still be maintaining them)” (n.6). Thus, all these studies can serve as an example and guide those involved in this process of inculturation.

4.4.7. Some Questions about Facts

The *seventh paragraph* asks some spontaneous questions based on the above mentioned facts and observations: “What concrete steps can be taken to react to these developments in such a positive way that 1) tensions between Latin and Eastern Catholics can be reduced and eventually eliminated, with the latter playing an increasing role in the life of the entire church; 2) the movement towards full ecclesial communion between Catholics and Orthodox can be encouraged and developed further, with Catholic students being well-acquainted with the Roman Catholic/Orthodox dialogue; 3) the entire Church, in its efforts toward renewal and adaptation to the needs of the present, can profit from the

experiences of the past and from the pluriformity of Christian traditions which are part of its history and heritage?" (n.7).

4.4.8. A Call for a Solution

To give a complete response to the above mentioned questions, the *eighth paragraph* calls the attention of all the dicasteries of the Roman Curia and of the proper organisms of the different *Ecclesiae sui iuris* to take appropriate action in this regard.

4.4.9. Proposed Guidelines for the Future

Concerning the realm of competence and responsibility, the Congregation for Catholic Education offers a series of guidelines and directions:

1 The bishops and the superiors of religious institutes are emphatically exhorted to encourage clergy and lay people who are particularly qualified to undertake higher studies at the Pontifical Oriental Institute in Rome, to support them in these studies and, once trained, to use them effectively in diocesan and religious institutions. Seminaries, institutes for the formation of deacons or directors of religious education, teachers training institutes are examples of the types of institutions whose work would be rendered more effective if they could call upon the regular assistance of persons whose serious academic training qualifies them as experts in the field of Eastern Christian studies (n.9).

2 In addition to the basic courses in the theological faculties and seminaries,²³⁵ the instruction continues:

- i. Courses should be available to the students on the fundamental notions regarding the Eastern Churches, their theological teachings, liturgical and spiritual traditions;
- ii. There must be a full and proper knowledge of the Fathers of the Church, both East and West;
- iii. The theological heritage of the East should be an essential part of teaching, in order to enrich the studies of the students of the Latin Rite and to promote a better appreciation of the Oriental churches.

²³⁵ Cfr. *Optatam Totius* n.16; CIC cans. 232-264; CCEO cans. 328-356.

After mentioning the important subjects of theological formation, the instruction suggests some qualifications for the teachers of the theological faculties and seminaries, saying: "These courses should be taught by those who are genuinely qualified and should be adapted to the situation of the place." Then it continues:

They should prepare the students for intellectual dialogue and for the concrete pastoral problems which can arise when different religious communities live together, for example, pastoral care in inter-ritual and mixed marriages. Where possible, this formation should include direct contact with Eastern Christian communities and their liturgical life. The students should recognize and come to understand the liturgical and cultural diversity among the Eastern Catholic Churches" (n.10).

3 In the faculties of Canon Law, attention should be given to the Eastern Canon Law and to the principal elements of current Orthodox discipline. This knowledge is not only important for those who are teaching in this field but also for the collaborators of diocesan tribunals and chanceries etc. (n.11).

4 In Catholic colleges and universities, some studies of Eastern Christianity should be included in the general curriculum of studies. Where there is a significant number of Eastern Christians among the teachers and students, particular care should be given not only to their pastoral needs but also to making possible a sufficient academic formation in their religious and cultural traditions. If possible special institutes faculties could be established to provide academic formation in those areas (n.12).

5 In order to deepen the Eastern Christian studies, the document urges supplying the libraries of the faculties and seminaries with books, periodicals and other materials necessary for the instruction on Eastern Churches (n.13).

6 Based on the Ecumenical Directory, Part II, chapter IV, the Congregation for Catholic Education earnestly recommends the cultivation of cooperation between Catholic and Orthodox authorities and scholars (n.14).

7 Finally, mentioning the various initiatives of different Popes in concern with this matter and also accepting its progress, however, the document again stresses the great need among the Catholics of the Latin tradition regarding the knowledge of peoples and traditions and churches of the Christian East (n.15).

5. The Development of Important Canons in the Schemata of the CIC and CCEO for the Pastoral Care of Migrants

5.1. The Development of Canons according to CIC and CCEO

5.1.1. Canon 372 §2 of CIC 1983

The canon listed above is the new canon in the new Code of Canon Law. At the same time we do not have parallel canon in the new Oriental Code. It appeared for the first time in the 1977 Schema under canon 221 §2, where it remained in the 1980 Schema almost like the previous schema but with a little modification, that is, the 1980 Schema added a new clause or an expression *salvis iuribus Ordinariorum locorum* after the words *cura id requirat*. This time it was as canon 339 §2.²³⁶ The Canon of the 1977 Schema reads as follows:

Attamen, ubi de iudicio supremæ Ecclesiæ auctoritatis, auditis quarum interest Episcoporum Conferentiis, utilitas id suadeat, in eodem territorio erigi valent Ecclesiæ particulares ratione ritus fidelium distinctæ; item ubi animarum cura id requirat, constitui valent Dioeceses vel Praelaturæ complectentes omnes et solos fideles alia ratione quam ritu determinata devinctos in certo territorio habitantes, immo vel Praelaturæ personales, nullo quidem territorio definitæ.²³⁷

But the 1982 Schema left out the second part of this canon after long discussions about Personal Prelatures²³⁸ and then, it was introduced with a new title *De Praelaturis Personalibus*²³⁹ in the 1982 Schema. The

²³⁶ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiæ Constitutione Hierarchica, Section II, Titulus II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput I: De Ecclesiis particularibus, Typis Polyglottis Vaticanis, 1980.

²³⁷ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum*, Liber II: De Populo Dei, Sectio II: De Ecclesiæ Constitutione Hierarchica, in Titulus II: De Ecclesiis Particularibus deque earundum coetibus, Caput II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Art. I: De Ecclesiis particularibus, Typis Polyglottis Vaticanis, 1977.

²³⁸ *Communicationes*, 17 (1985) 90-94; 12 (1980) 276, 282.

²³⁹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiæ Constitutione Hierarchica, Section II, Titulus IV: De Praelaturis Personalibus, Typis Polyglottis Vaticanis, 1980.

first part of the above said canon became canon 372 §2 of the 1982 Schema novissimum, together with a new expression *quarum interest* after the *Episcoporum Conferentiis*. It reads as follows:

Attamen, ubi de iudicio supremæ Ecclesiæ auctoritatis, auditis quarum interest Episcoporum Conferentiis quarum interest, utilitas id suadeat, in eodem territorio erigi possunt Ecclesiæ particulares ratione ritus fidelium distinctæ.²⁴⁰

Finally the Schema Novissimum got some modification just before the promulgation of the canons because of the intervention of the Papal Commission²⁴¹. As a result a new expression *aliave simili ratione distinctæ* has been inserted after the word *fidelium*. In the new promulgated canon we read:

Attamen, ubi de iudicio supremæ Ecclesiæ auctoritatis, auditis quarum interest Episcoporum Conferentiis quarum interest, utilitas id suadeat, in eodem territorio erigi possunt Ecclesiæ particulares ratione ritu fidelium aliave simili ratione distinctæ (can.372 §2).

5.1.2. Canon 383 §1 of CIC 1983

The first schema of the 1983 Code appeared in 1977. In this schema, as we know, explicit use of the term migrant appeared. But canon 236 §1 of the schema 1977 was summed up in article n. 18 of the council decree *Christus Domunus*. The schema reads as follows:

In exercendo suo munere pastoris, Episcopus dioecesanus sollicitum se praebeat erga omnes christifideles qui suae curae committuntur, cuiusvis sint aetatis, conditionis vel nationis, tum in territorio habitantes tum in eodem ad tempus versantes, animum intendens apostolicum ad eos qui ob vitae suae conditionem ordinaria cura pastoralis non satis frui valent necnon eos qui a religionis praxis defecerunt.²⁴²

²⁴⁰ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici-Schema Novissimum*, Liber II: De Populo Dei, Pars II, De Ecclesiæ Constitutione Hierarchica, Sectio II, De Ecclesiis particularibus deque earundem coetibus, Titulus I: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput I: De Ecclesiis particularibus, Typis Polyglottis Vaticanis, 1982.

²⁴¹ ADOLFO LONGHITANO, "Parte III: Chiesa Particolare e Chiesa Universale", in *Diritto nel Mistero della Chiesa*, vol. II, Pontificia Università Lateranense, Roma, 1990, p. 366.

²⁴² Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum*, Liber II: De Populo Dei, Sectio II: De Ecclesiæ Constitutione Hierarchica, in Titulus II: De Ecclesiis

This Canon remained without change in the 1980 Schema too. But this time it appeared as can. 350 §1.²⁴³ In the 1982 Schema Novissimum, it became can. 383 §1²⁴⁴, as in the 1983 Code of Canon law, without any change from its original appearance in the 1977 Schema.

5.1.3. Canon 383 §2 of CIC 1983

This canon was not included in the Schema of 1977, appearing later in the Schema of 1980 as canon 350 §2.²⁴⁵ Thence onward it followed without any change in both 1982 Schema Novissimum²⁴⁶ and in the 1983 Code of Canon Law. Both in the Schema novissimum and the final text it became canon 383 §2. The Canon reads as follows:

Fideles diversi ritus in sua dioecesi si habeat, eorum spiritualibus necessitatibus provideat sive per sacerdotes aut paroecias eiusdem ritus, sive per Vicarium episcopalem.

5.1.4. Canon 192 §1 of CCEO 1990

The first Schema regarding the *Canons of Episcopis* of the new Oriental Code first appeared in *Nuntia*, 1979.²⁴⁷ In this schema, the can.

Particularibus deque earundem coetibus, Caput II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Art. II: De Episcopis, §2: De Episcopis Dioecesanis, Typis Polyglottis Vaticanis, 1977.

²⁴³ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiae Constitutione Hierarchica, Section II, Titulus II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput II: De Episcopis, Art. II: De Episcopis Dioecesanis, Typis Polyglottis Vaticanis, 1980.

²⁴⁴ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici - Schema Novissimum*, Liber II: De Populo Dei, Pars II, De Ecclesiae Constitutione Hierarchica, Sectio II, De Ecclesiis particularibus deque earundem coetibus, Titulus I: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput II: De Episcopis, Art. II: De Episcopis Dioecesanis, Typis Polyglottis Vaticanis, 1982.

²⁴⁵ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiae Constitutione Hierarchica, Section II, Titulus II: De Ecclesiis Particularibus et de auctoritate in iisdem constituta, Caput II: De Episcopis, Article II: De Episcopis Dioecesanis, Typis Polyglottis, Vaticanis, 1980.

²⁴⁶ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici Schema Novissimum*, Liber II: De Populo Dei, in Pars II: De Ecclesiae Constitutione Hierarchica, Section II: De Ecclesiis Particularibus deque earundem coetibus, Titulus I: De Ecclesiis Particularibus et de auctoritate in iisdem constituta, Caput II: De Episcopis, Article II: De Episcopis Dioecesanis, Typis Polyglottis, Vaticanis, 1982.

²⁴⁷ *Nuntia* 9 (1979) 3-61.

192 §1 appeared in the first time under can. 16 §1 of *De iuribus et obligationibus Episcoporum eparchialium*,²⁴⁸ as did can. 383 §1 of CIC in the 1977 Schema. The Commission for the *Sacra Hierarchia* did not give any argument for the acceptance of this text but simply said the *Coetus* accepted the text of the Commission for the Revision of CIC.²⁴⁹ It reads as follows:

In exercendo suo munere pastoris, Episcopus sollicitum se praebeat erga omnes christifideles qui suae curae committuntur, cuiusvis sint aetatis, conditionis vel nationis, vel ritus, tum in territorio eparchiae habitantes tum in eodem ad tempus versantes, animum intendens apostolicum ad eos qui ob vitae suae conditionem ordinaria cura pastoralis non satis frui valent necnon eos qui a religionis praxi defecerunt.²⁵⁰

This canon remained in the 1986 Schema as in the 1979 Schema. This time it has appeared as can. 190 §1 with greater clarity. But the Schema of 1986 used the words *Ecclesiae sui iuris* and *frui possunt* instead of the words *Rite* and *frui valent*. Later it became can. 192 §1 of the *Codex Canonum Ecclesiarum Orientalium* without any alteration. The new Canon of the 1986 Schema reads:

In exercendo suo munere pastoris, Episcopus eparchialis sollicitum se praebeat erga omnes christifideles qui suae curae committuntur, cuiusvis sunt aetatis, conditionis vel nationis, vel Ecclesiae sui iuris tum in territorio eparchiae habitantes tum in eodem ad tempus versantes, animum intendens apostolicum ad eos qui ob vitae suae conditionem ordinaria cura pastoralis non satis frui possunt, necnon ad eos, qui a religionis praxi defecerunt.²⁵¹

5.1.5. Canon 193 §2 of CCEO 1990

For can. 383 §2 there was no parallel canon in 1979 Schema. But the Schema 1986 of the Oriental Code brought out a new canon, which was identical to the 1980 Schema of CIC. In the 1986 Schema it was appeared as canon 191 §2²⁵², but in the new Oriental Code became canon

²⁴⁸ Nuntia 9 (1979) 17.

²⁴⁹ Pour le §1 le Coetus a accepté le texte de la Commission Révision du CIC. Cfr Nuntia 9 (1979) 17.

²⁵⁰ Nuntia 9 (1979) 17.

²⁵¹ Nuntia 24-25 (1986) 35.

²⁵² Nuntia 24-25 (1986) 35.

193 §2 with a slight modification, that is, instead of *pro negotiis*, the new text has used the words *ad curam*. The Canon reads:

Spiritualibus necessitatibus horum christifidelium Episcopus eparchialis provideat, si fieri potest, per presbyteros vel parochos eiusdem Ecclesiae sui iuris ac christifideles aut etiam per Syncellum ad curam horum christifidelium constitutum.

5.1.6. Canon 476 of CIC 1983

Like the other canons of the first schema, this canon too appeared in the 1977 Schema, especially as canon 289.²⁵³ With the insertion of this canon the Church wanted to facilitate the works of the Bishops in their dioceses. Thus this canon provides the Bishops various possibilities to appoint one or more episcopal Vicars according to the need and good governance of their dioceses. This canon of 1977 Schema remained unchanged in both Schemata of 1980 and 1982. But the number of the canon became altered: in the 1980 Schema it was can. 396;²⁵⁴ finally, both in the schema novissimum and in the final text it became canon 476.²⁵⁵ The text of the 1977 canon appears as follows:

Quoties rectum dioecesis regimen id requirat, insuper constitui possunt ab Episcopo dioecesano unus vel plures Vicarii episcopales, qui nempe aut in determinata dioecesis parte aut in certo negotiorum genere aut quoad fideles determinati ritus certive personarum coetus, eadem gaudent potestate ordinaria quae iure communi Vicario generali competit ad normam canonum qui sequuntur.

²⁵³ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum*, Liber II: De Populo Dei, Sectio II: De Ecclesiae Constitutione Hierarchica, in Titulus II: De Ecclesiis Particularibus deque earundum coetibus, Caput II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Art. IV: De Curia Dioecesana - §1 De Vicariis Generalibus et Episcopalibus, Typis Polyglottis Vaticanis, 1977.

²⁵⁴ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiae Constitutione Hierarchica, Section II, Titulus II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput IV: De Curia Dioecesana, Art. 1: De Vicariis Generalibus et Episcopalibus, Typis Polyglottis Vaticanis, 1980.

²⁵⁵ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici - Schema Novissimum*, Liber II: De Populo Dei, Pars II, De Ecclesiae Constitutione Hierarchica, Sectio II, De Ecclesiis particularibus deque earundem coetibus, Titulus III: De Interna Ordinatione Ecclesiarum Particularium, Caput II: De Curia Dioecesana, Art. I: De Vicariis Generalibus et Episcopalibus, Polyglottis Vaticanis, 1982.

5.1.7. Canon 246 of CCEO 1990

We could find the sum and substance of canon 476 of the 1983 Code in the 1979 Schema of CCEO 1990. It first appeared in the 1979 Schema as canon 59.²⁵⁶ It remained unchanged in the 1986 Schema in canon 244, except for the expression *circa christifideles alii Ecclesiae sui iuris ascriptos* instead of *quoad fideles determinati ritus*²⁵⁷, as also in the new Oriental Code. But in the new Oriental Code it became canon 246. The first text of the canon in 1979 schema reads:

Quoties rectum eparchiae regimen id requirat constitui possunt unus aut plures Syncelli qui nempe ipso iure, in determinata eparchiae parte aut in certo negotiorum genere aut quoad fideles determinati ritus certive personarum coetus, ea gaudent potestate quam ius commune Protosyncello tribuit.

5.1.8. Canon 518 of CIC 1983

One of the new structures presented by the new Code of Canon Law is the personal parish in which the Church wanted to give pastoral care according to the circumstances of the people on move or, in other words she wanted to correspond her pastoral mobility to human mobility. It is not a new invention of the 1983 Code of Canon Law, for the Apostolic Constitution *Exsul Familia* had already provided the possibility for erecting personal parishes in order to fulfill the pastoral need of all kinds of migrants.

Therefore, from practical experience Church wanted to provide this structure in the future Code of Canon Law. As a result it first appeared in the Schema of 1977 as canon 350.²⁵⁸ Thence, this Schema remained unchanged in the 1980 and 1982 versions, and finally in the new revised Code of Canon Law of 1983. However, the expression of *de iudicio Episcopali dioecesani, audito Consilio presbyterali* of the 1977 Schema

²⁵⁶ Nuntia 9 (1979) 42.

²⁵⁷ Nuntia 24-25 (1986) 46.

²⁵⁸ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Canonum*, Liber II: De Populo Dei, Sectio II: De Ecclesiae Constitutione Hierarchica, in Titulus II: De Ecclesiis Particularibus deque earundum coetibus, Caput II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Art. IX: De Paroeciis et de Parochis, Typis Polyglottis Vaticanis, 1977.

was no longer included in the Schema of 1980. Further, the 1982 Schema excluded the words *immo* and *definita*. In the 1980 Schema it became canon 457.²⁵⁹ But, in both schema novissimum²⁶⁰ and in the 1983 Code of canon law it has appeared as canon 518. The canon of 1977 Schema reads as follows:

Paroecia regula generali sit territorialis quae scilicet omnes complectatur christifideles certi territorii; ubi vero, de iudicio Episcopali dioecesani, audito Consilio presbyterali, id expediat, constituentur paroeciae personales, ratione nationis, linguae, ritus christifidelium alicuius territorii, immo vel alia definita ratione determinatae.

5.1.9. Canon 280 of CCEO 1990

It is also a new canon in the CCEO although it already appeared in the Schema 1977 of CIC. Therefore, acknowledging the importance of this canon, the *Coetus de parochis* agreed to accept also for CICO canon 350 of Schema 1977.²⁶¹ In the Schema of the CICO 1979 it reads as follows:

Paroecia regula generali sit territorialis, quae scilicet omnes complectatur christifideles certi territorii; ubi vero, de iudicio Episcopi eparchialis, audito Consilio presbyterali, id expediat. constituentur paroeciae personales, ratione

²⁵⁹ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Schema Codicis Iuris Canonici*, Liber II: De Populo Dei, in Pars II: De Ecclesiae Constitutione Hierarchica, Section II, Titulus II: De Ecclesiis particularibus et de auctoritate in iisdem constituta, Caput IX: De Paroeciis, De Parochis et De Vicariis Paroecialibus, Typis Polyglottis Vaticanis, 1980.

²⁶⁰ Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici - Schema Novissimum*, Liber II: De Populo Dei, Pars II, De Ecclesiae Constitutione Hierarchica, Sectio II, De Ecclesiis particularibus deque earundem coetibus, Titulus III: De Interna Ordinatione Ecclesiarum Particularium, Caput VI: De Paroeciis, De Parochis et De Vicariis Paroecialibus, Polyglottis Vaticanis, 1982.

²⁶¹ "In relation to the personal parishes (*paroeciae personales*) the Study Group agreed to accept also for CICO canon 350 of the schema (1977) *De populo Dei* of the Commission for the Revision of CIC, in which is reaffirmed, along general lines, the traditional principles of the territoriality of the parish, but with the possibility of forming <<personal parishes>> where they are necessary. This text, which is proposed as can. 2, was considered by the Study Group as very convenient for the Oriental Code, especially when we consider a particular circumstances in which the Oriental Catholics are living in western Countries". Cfr. *Nuntia* 9 (1979) 64.

nationis, linguae, ritus christifidelium alicuius territorii, immo vel alia definita ratione determinatae (can.2).

This same canon remained in the Schema of 1986 together with a slight modification. But, there was no alteration for the promulgated canon 280 §1 of CCEO. In the 1986 Schema this canon appeared as 278 §1, as follows:

Paroecia regulariter sit territorialis, quae scilicet omnes complectatur christifideles; si vero de iudicio Episcopi eparchialis consulto consilio presbyterali id expedit, constituentur paroeciae personales ratione nationis, linguae, ascriptionis christifidelium alii Ecclesiae sui iuris immo vel alia definita ratione determinatae.

5.1.10. Canon 568 of CIC 1983

The Schemata of both 1977 and 1980 of the Code of Canon Law failed to bring out a similar canon in favour of migrants and other groups of people. This lacuna in some way removed the Schema Novissimum with the insertion of canon 568. Besides, for the first time the word *migrant* appeared in the Schema of the Code of Canon Law. And above all, this is the only canon that introduced a new juridical figure in the 1983 Code of Canon Law as the Chaplain for migrants. However, we have no parallel canon for this in CCEO. The new canon reads:

Pro iis qui ob vitae condicionem ordinaria parochorum cura frui non valent, uti sunt migrantes, exsules, profugi, nomades, navigantes, constituentur, quatenus fieri possit, cappellani.²⁶²

5.1.11. Canon 148 of CCEO 1990

New to the Oriental Code, and without a parallel canon in the 1983 Code of Canon Law. Actually this canon is the fruit of both the Apostolic Constitution *Regimini Ecclesiae Universae* and the motu proprio *Cleri Sanctitati*. But *Nuntia* speaks only about the Apostolic Constitution *Regimini Ecclesiae Universae*. Actually, canon 262 of the *Cleri*

²⁶² Pontificia Commissio Codici Iuris Canonici Recognoscendo, *Codex Iuris Canonici* - *Schema Novissimum*, Liber II: De Populo Dei, in Parts II: De Ecclesiae Constitutione Hierarchica, Sectio II: De Ecclesiis Particularibus deque earundem coetibus, Titulus III: De interna ordinatione ecclesiarum particularium, Caput VIII: De ecclesiarum rectoribus et de cappellanis, Art. II: De cappellanis, Polyglottis, Vaticanis, 1982.

Sanctitati has influenced the reduction of article 44 of the *Regimini Ecclesiae Universae*. But the relator of the *Coetus* mentioned only art. 44 of the Apostolic Constitution *Regimini Ecclesiae Universae*. According to the report of the relator of the Revision of the Code of Oriental Canon Law, "the *Coetus* wished to affirm the right of surveillance of the Holy See over the implementation of the obligations prescribed in CD n.23."²⁶³ Therefore, they decided it opportune that "it repeats almost literally article 44 of the Apostolic Constitution *Regimini Ecclesiae Universae*."²⁶⁴ As a result this canon appeared for the first time in the 1986 schema and remained unchanged in the promulgated text, too. It reads as follows:

Canon 148 §1. Patriarchae ius et obligatio est circa christifideles, qui extra fines territori Ecclesiae, cui praeest, commorantur, oportunas informationes exquirendi etiam per Visitatorem a se de assensu Sedis Apostolicae missum.

§2. Visitator, antequam suum munus init, horum christifidelium Episcopum eparchialem adeat eique nominationis litteras exhibeat.

§3. Visitatione peracta Visitator ad Patriarcham relationem mittat, qui re in Synodo Episcoporum discussa Sedi Apostolicae opportuna media proponere potest, ut ubique terrarum tuitioni atque incremento boni spiritualis christifidelium Ecclesiae, cui praeest, etiam per constitutionem paroeciarum ac exarchiarum vel eparchiarum propriarum provideatur.

On the other hand, let us see the influence of *motu proprio Cleri Sanctitati* in the reduction of article 44 of the Apostolic Constitution. It states as follows:

Canon 262 §1. 1. Patriarchae est, obtento consensu Sedis Apostolicae, idoneum sacerdotem saecularem vel religiosum, quoties opportunum ei videatur, ad fidelium communitates extra territorium patriarchale commorantium, si in eosdem fideles ei, ad normam can. 216 §2,2, potestas competat, mittere, qui eosdem paterne visitet et de omnibus ad Sacra Congregationem pro Ecclesia Orientali et ad ipsum referat;

²⁶³ Nuntia 6 (1978) 28.

²⁶⁴ Nuntia 6 (1978) 21; Article 44 of *Regimini Ecclesiae Universae*: "immo in ipsis territoriis Latinis sedula cura, etiam per Visitatores, invigilat nucleis nondum ordinatis fidelium Rituum Orientalium eorumque spiritualibus necessitatibus, quoad fieri potest, consulit, per constitutionem quoque propria hierarchiae, si numerus fidelium et adiuncta id exigant."

2. Visitator antequam munus ineat, Hierarcham loci adeat, eique suae nominationis litteras exhibeat.

§2. Visitatio canonica eorundem fidelium, firmo iure et officio Hierarchae loci, uni Sedi Apostolicae competit.²⁶⁵

Conclusion

Present-day human mobility is a universal phenomenon. Large numbers of people of the universe are involved in this tragic movement to fulfill their dreams for a better life, and many others are taking part in the migratory movement as exiles or refugees. They are compelled to leave their country of origin and settle in other countries or to relocate within a country itself. Thus begin the ups and downs in their lives, not only in the sphere of material goods but also in the spheres of spirituality, culture, psychology and language.

The presence of these migrants compell the Universal Church to extend her pastoral solicitude towards them. In the course of time various attempts have been made by different Popes for the preservation of the spiritual patrimony of these migrant faithful. As a result they issued various constitutions, decrees and instructions to safeguard their faith at all levels. Therefore, in this chapter we tried to present the important documents and, at the same time, attempted to analyze them in order to find out the various structures and other possibilities given by these documents for providing adequate pastoral care for migrants.

Moreover, our journey through the various decrees of the Second vatican Council, especially of its formation periods, gave us insight not only into the phenomenon of migration but also how the Council Fathers

²⁶⁵ Cleri Sanctitati can. 262 §1. 1. The patriarch is entitled to send, with the consent of the Apostolic See, as often as he considers it appropriate, a suitable secular or religious priest to communities of faithful residing outside the patriarchal territory, if he has power over these faithful according to the norm of can. 216 §2, 2, which priest shall paternally visit them and report everything to the Sacred Congregation for the Oriental Church as well as to the patriarch.

2. The visitor shall before taking over his duty present himself to the local Hierarch and submit to him the document of his appointment.

§2. The canonical visitation of these faithful is a right only of the Apostolic See, without prejudice to the rights and duties of the local Hierarch.

treated this matter through its entire period. Perhaps they have failed to issue one single document for the pastoral care of migrants, but they tried to give their messages to the whole Church through the various passages of the Council decrees. Later these messages echoed in most of the post conciliar decrees especially in the *Corpus Iuris Canonici*, the *Codex Iuris Canonici*, the Apostolic Constitution *Pastor Bonus* and the *Codex Canonum Ecclesiarum Orientalium*, as we have indicated in this chapter.

CHAPTER FOUR

Specific Structures for the Pastoral Care of Syro-Malabar Migrants

Introduction

Inaugurating the work of the plenary session of the Pontifical Commission for the Revision of the Code of Canon Law, Pope Paul VI stressed the need for the close relationship between the revision of Code of Canon Law and the Council in the following words:

Now, however, with changing conditions--for life seems to evolve more rapidly--Canon Law must be prudently reformed; specifically, it must be accommodated to a new way of thinking proper to the Second Ecumenical Council of the Vatican, in which pastoral care and new needs of the people of God are met.¹

In an allocution addressed to the International Congress of Canonists on 25 May 1968, stressing the importance of revision and study of Canon Law, the same Pope said, "Canon Law has the greatest importance for the execution of the Church's life mission. It supports, safeguards and promotes all the common enterprises which are undertaken so that Christian life can be lived with even greater fidelity and constancy. Since, indeed, progress in Christian living demands, in turn, pastoral ministry, there is a proper and special need of Church statutes which are to be such as to correspond to the various and multiple needs of the pastoral activity, showing the open avenues whereby Church can appropriately accomplish its work. ...With the constant grace of the Holy Spirit, Canon Law is not a hindrance but a stimulus, not a corroder but

¹ Communicationes 1 (1969) 41. The Pontifical Commission for the Revision of the Code of Canon Law, which was established by the Supreme Pontiff, John XXIII, on 28 March 1963, had the task of preparing the revision of the *Code of Canon Law*, especially in the light of the decrees of the Second Vatican Council.

a supporter, not an enforcement agent but a promoter and protector of Christian life truly so-called.”²

Inspired by the present day conditions of the faithful, both Codes of Canon Law have obediently responded to the Conciliar decrees by means of the principles approved by the 1967 Synod of Bishops³ and the Guidelines which were approved at the First Plenary Assembly of the Commission for the Revision of Code of the Oriental Canon Law in 1974.⁴ Indeed, almost all the elements of these principles have entered into both Codes. According to the commission of the CIC, the principle and essential end of Canon Law is “to define and protect the rights and obligations of each man in relation to other men and in relation to society in so far as this can be done by the Church and in so far as it pertains to the worship of God and the salvation of souls.”⁵

In the light of these teachings and at the same time looking back to the previous chapter 3, we try to present in this chapter both the specific structures and offices in the Universal Church in order to understand how the Catholic Church shows her maternal concern towards the downtrodden migrants of Syro-Malabar Church. For this purpose, first of all, we make an effort to expose the urgency of this specific pastoral care within the framework of the preservation of culture, including language and spiritual patrimony. Then, we present all the elements for this specific pastoral care of migrants. However, we cannot expect to find all the richness of the above-mentioned documents we treated in the previous chapter, but we keep in mind that they are the main documents in Church’s legislation concerning human mobility from which the Code of Canon Law has gathered the fundamental directives of the Church on the pastoral care of migrants.

² PAUL VI, Allocution AAS 60 (1968) 337; cfr. The Canon Law Digest, Officially Published Documents Affecting the Code of Canon Law 1968-1972, Translated and Edited by JAMES I. O’CONNOR, Vol. IX, Chicago, 1975, pp. 65-66.

³ The original text of the guiding principles for the revision of the Code of Canon Law published in *Communicationes* 2 (1969) 77-85. For the English translation cfr. JORDAN HITE & DANIEL J. WARD, *Readings, Cases, Materials in Canon Law*, op. cit., pp. 84-92.

⁴ Nuntia 3 (1976) 18-24. The guidelines were approved on 18-23 March 1974.

⁵ *Communicationes* 2 (1969) 79.

1. Special Pastoral Care for the Migrants

It is clear that the migrants need a special pastoral care according to the new situation in their life, because those who are going out from their native country or from their proper community are curtailed by all kinds of communications. As a result they became uprooted and disoriented at all levels, and gradually this situation leads to various repercussions especially in the realm of faith and in religious practices.⁶ To prevent, therefore, all these repercussions migrants need a special pastoral care--or we can say an extraordinary pastoral care--in their particular situation.

Such pastoral care is extraordinary, because the situation of migrants is extraordinary: not knowing the language or culture, having a different spiritual patrimony, for sometime they belong to different Eastern Churches and are unable to avail themselves of ordinary parish pastoral care. Therefore, we are obliged to give extraordinary pastoral care according to the need of this particular group of people. As in the case of Oriental rite migrants, we cannot limit this service for particular times. They are incultured into the new community because they have a different religious patrimony inherent in their life and faith, so they need this extraordinary pastoral care as long as they live or stay in a place where everything is alien to them. Sometimes it may gradually lead to a permanent pastoral care according to their new circumstances. Again, as in the case of Orientals this permanency in a particular place urges the Church to provide an extraordinary pastoral care on the basis of territorial or personal parishes to sustain the spiritual patrimony proper to their particular Church or Rite. This is the general perspective of the Church today towards migrants, especially from the time of the *Fourth Lateran Council* to the *Corpus iuris canonici*.

2. Preservation of Ritual Patrimony

We have already seen and treated in the second chapter, entitled "The Concept of Rite and its historical development". However, let us now consider some notion concerning the preservation of rite in general.

⁶ DSS, n. 1984.

It is noteworthy that canon 28 of CCEO speaks of rite as a patrimony, "*ritus est patrimonium*". This is followed by an enumeration of the constitutive elements of this patrimonium or rite.

The use of the term rite in the documents of the Second Vatican Council is a complex of doctrine, culture, history, discipline, rites, traditions, etc., which are inseparable from a person or institution.⁷ The use of the term in OE 1, 3 and 5 speaks of the spiritual patrimony of the Churches, both Universal and particular. In CIC the word is used to mean both material and immaterial things. Thus, in cans. 1283, 1285 and 1291, in the context of the canons of the temporal goods of the Church, patrimony has a material connotation, while cans. 251, 578, 586 refer primarily to the spiritual patrimony of the institutes of consecrated life. From the brief analysis stated above we can understand that the term *patrimonium* has a well-established theological and juridical content.⁸

According to CCEO the constitutive elements of this patrimonium are liturgy, theology, spirituality, discipline, culture and the vicissitudes of history of a distinct people (can. 28). By it an *Ecclesia sui iuris* expresses its own manner of a living faith. Thus we can say rite is a complex of a whole. We will proceed by briefly analyzing the important element of patrimony.

2.1. Preservation of Liturgical Patrimony

We have seen that the notions of liturgy and rite are closely linked,⁹ but "the liturgy is the most apparent element of the rite, a sign of the diversity of the ancient traditions. In many instances it has given a name to the canonical rites, and in the norms of the conservation of rites coming from the Apostolic See most often it is the liturgy that was referred to in the first place."¹⁰ Many ecclesiastical writers made attempts to define liturgy, but due to its living and dynamic character, it cannot easily be

⁷ X. OCHOA, "Modus Determinandi Patrimonium Constitutionale Cuiusvis Instituti Perfectionis Proprium," in *Commentarium pro Religiosis* 48 (1967) 342.

⁸ ANTONY VALIYAVILAYIL, *The Nature of a Sui Iuris Church* (unpublished thesis), Rome, 1992, p. 41.

⁹ Cfr. Chapter II, pp. 65-69, etc.

¹⁰ BASSET, *The Determination of Rite*, op. cit., p. 247.

reduced to concepts.¹¹ Through the encyclical *Mediator Dei*¹² Pius XII expressly rejected the definitions which stressed only to the externalities of liturgy:

It is an error, consequently, and a mistake to think of the sacred liturgy as merely the outward or visible worship or as an ornamental. No less erroneous is the notion that it consists solely in a list of laws and prescriptions according to which the ecclesiastical hierarchy orders the sacred rites to be performed.¹³

For avoiding this externalist mentality, Pius XII defines liturgy as public worship which our Redeemer, the Head of the Church, offers to the heavenly Father and which the community of Christ's faithful pays to its founder, and through him to the Eternal Father; briefly it is the whole public worship of the mystical body of Jesus Christ, Head and members.¹⁴ This teaching of Pius XII was taken over by the Second Vatican Council and defined (SC nn.7, 26). Therefore, liturgy, as the exercise of the priestly office of Christ and as the celebration of the salvific mysteries, is common to the entire Mystical Body, the Church of Christ, and here one cannot make ritual differences. The ritual differences occur when rites or the signs, symbols, prayers and the corresponding actions are employed in various liturgies. In this way only can we understand the liturgical patrimony of an *Ecclesia sui iuris* as the sum total of all the external manifestations of the signs, symbols, text, language and mode of celebration used in the worship and the spiritual life of the Church.¹⁵

Therefore, liturgy is an essential element of the particular churches, but it is not necessarily a distinctive element. As we know, within the general pattern of the liturgy one can find various rites, and variations in language and other minor rubrical changes may be distinctive. This is evident in various *Ecclesiae sui iuris* because they used various languages, various feasts, calendar changes and special popular devotions in the same liturgical rite.

¹¹ A. VALIYAVILAYIL, *The Nature of a Sui Iuris Church*, op. cit., p. 42.

¹² PIUS XII, Encyclical Letter *Mediator Dei*, AAS 39 (1947) 521-595.

¹³ PIUS XII, *Mediator Dei*, p. 532.

¹⁴ PIUS XII, *Mediator Dei*, p. 529.

¹⁵ A. VALIYAVILAYIL, *The Nature of a Sui Iuris Church*, op. cit., p. 43.

2.2. Preservation of Theological Patrimony

Another important element of this patrimony is theology. According to Conciliar Decree *Orientalium Ecclesiarum* n.3, the constitutive elements of this patrimony are liturgy, ecclesiastical discipline and spiritual tradition. But, the Dogmatic Constitution *Lumen Gentium* n.23 speaks of a theological patrimony, also. Similarly, the Decree on Ecumenism foresees the need for proper freedom, while keeping unity in essentials in various matters in order to preserve the various forms of spiritual life, discipline and liturgical rites, which include freedom of theological elaborations of revealed truth (UR n.4). Theological patrimony is not simply the content of the theological wealth of a rite, but a method of theologising itself that is proper to a Church (UR nn. 4, 17). The aim of theologising is reincarnating and reinterpreting the Christ event to nations and peoples and making it an ever-living tradition and patrimony according to the principles of scientific investigation.¹⁶ As the Council said:

With regard to the authentic theological traditions of the Orientals, we must recognize that they are admirably rooted in Holy Scripture, are fostered and given expression in liturgical life, are nourished by the living tradition of the apostles and by the works of the Fathers and spiritual writers of the East (UR n.17).

An important characteristic of Oriental theologising is its relation to liturgy (UR n.17), for it lives and teaches theology through liturgy. In this regard J.D. Zizioulas writes: "The metahistorical, eschatological and iconological dimension of the Church is characteristic of the Eastern tradition, which lives and teaches theology liturgically; it contemplates the being of God and the being of the Church with the eyes of worship, principally of eucharistic worship, image of the '*eschata*' par excellence."¹⁷

2.3. Preservation of Disciplinary Patrimony

The preservation of disciplinary patrimony means the sum total of laws which regulate every aspect of ecclesial life so that the tranquility

¹⁶ A. VALIYAVILAYIL, *The Nature of a Sui Iuris Church*, op. cit., p. 46-47.

¹⁷ JOHN D. ZIZIOULAS, *Being as Communion*, New York, 1985, pp. 18, 141.

of order may be preserved in both Universal and particular Churches. "Authors are in general agreement, therefore, Basset writes, "that a distinctive element of the particular churches is that which is proper to them and which binds their members."¹⁸ This is substantiated by Vatican II, when it declared that "the Churches of the East like those of the West have the right and duty to govern themselves according to their own special discipline" (OE n.5). For removing all kinds of preoccupations and doubts the Council again reaffirmed more solemnly, "that the Churches of the East, while keeping in mind the necessary unity of the whole Church, have the power to govern themselves according to their own disciplines, since they are better suited to the character of their faithful and better to foster the good of souls" (UR n.16). Again the Guidelines for the Revision of the Code of Oriental Canon Law pointed out that a common code is not detrimental to the disciplinary patrimony of each Church.¹⁹ Therefore, this discipline, which is a constitutive element of the rite, in fact makes a Church *sui iuris* with its own law.²⁰

In order to keep intact the disciplinary patrimony of each *Ecclesia sui iuris* both Codes left ample space or provisions to particular laws. The particular law of an *Ecclesia sui iuris* is made up of the complex of laws, legitimate customs, decrees, and instructions, statutes and regulations, proper to the Church in question.²¹ Besides, the very word *Ecclesia sui iuris* means a Church with its own proper law, a Church *ratione iuris proprii*. At the same time we can say that particular law is a part of the rite and is a constitutive and necessary element for expressing the life of an *Ecclesia sui iuris*, but it is not a constitutive element of an *Ecclesia sui iuris*.

¹⁸ BASSET, *The Determination of Rite*, op. cit., p. 245; HERMAN, *De conceptu "ritu"*, art. cit., p. 339; WOJNAR, *De ritu in iure canonico orientali*, art. cit., p. 532; EID, *La Figure Juridique du Patriarche*, op. cit., pp. 59-60; CICOGNANI-STAFFA, *Commentarium ad librum primum Codicis Iuris Canonici*, vol. I, op. cit., p. 11.

¹⁹ Nuntia 3 (1976) 18-19.

²⁰ A. VALIYAVILAYIL, *The Nature of a Sui Iuris Church*, op. cit., p. 49.

²¹ Cfr. M. BROGI, "Particular Law in the Future Oriental Code of Canon Law", in *Homage to Mar Cariattil, Pioneer Malabar Ecumenist*, ed., C. PYNGOT, Rome, 1987, p. 93.

2.4. Preservation of Cultural Patrimony

God reveals Himself in many ways. The Church believes that there is a unique and special revelation of God in Christ, shown clearly in the Bible and in Christian tradition. The Church carries this message to the four corners of the world. In the process of evangelization the Church comes into conflict with the cultures it encounters. Today this clash is felt more keenly than ever in the history of the Church because contemporary man has come to understand and value his culture increasingly and he is ready to defend it by all means if attacked or in danger of being superimposed. As a result there is a strong cultural revivalism in the world now, especially in the developing countries, and Christianity has often been accused of destroying local cultures and their heritage.

There are many definitions of culture, one of the most famous that of Edward Tylor, who defines culture as “that complex whole which includes knowledge, belief, art, morals, law, custom and any other capabilities and habits acquired by man as a member of society.”²² In this definition we understand that the human society becomes the criterion of culture which a human being learns, or acquires, as a member of society. But the Second Vatican Council, especially in the Apostolic Constitution *Gaudium et Spes*, the word “culture” is used in a general sense to refer to all those things which go to refining and developing man’s diverse mental and physical endowments (GS n.53). In other words, it is one of the properties of the human person through which he can achieve true and full humanity.²³ At the same time cultures are, indeed, greatly variable and unique because the way one society tries to meet the needs of its members differs from that of other societies. Every culture meets its needs in a specific way.

Again, both *Gaudium et Spes* and *Ad Gentes* speak about the patrimony proper to each human society. According to the Council the heritage of its institutions forms the patrimony proper to each human community which arises from different styles of living and different

²² E. B. Tylor, *Primitive Culture*, vol. 1, London, 1891, p. 1.

²³ Cfr. PIER ANTONIO BONNET, “The Fundamental Duty-Right of the Migrant Faithful”, in *Migrations: Interdisciplinary Studies*, vol. I, Vatican City, 1985, p. 191.

scales of values, of working and self-expression, of practicing religion and of behaviour, of establishing laws and juridical institutions, of developing science and arts, of cultivating beauty (GS n.53). In this particular situation the decree on the Church's Missionary Activity *Ad Gentes* exhorts that, "therefore, whoever is to go among other people must hold their patrimony, language and way of life in great esteem" (AG n.26).

The Declaration of Christian Education *Gravissimum Educationis* speaks of the patrimony of the culture of mind and spirit which points out that education develops a capacity for sound judgement and introduces the people to the cultural heritage or patrimony bequeathed to them by former generations. It clearly says that generations are involved in the formation of a cultural patrimony and this patrimony is faithfully transmitted from one generation to the other (GE n.5).

Since Vatican II, the problem of inculturation has been actively discussed by officials of the Church, theologians and a variety of people concerned about ministry and pastoral care. All these works culminated in the exhortation of Pope Paul VI in *Evangelii Nuntiandi*.²⁴ The most important statement about the problem reads as follows:

The Gospel, and therefore evangelization, are certainly not identical with culture, and they are independent in regard to all cultures. Nevertheless, the Kingdom which the Gospel proclaims is lived by men who are profoundly linked to a culture, and the building up of the Kingdom cannot avoid borrowing the elements of human culture or cultures. Therefore, although the Gospel and evangelization do not properly belong to any culture, neither are they incompatible with any. On the contrary, they can enter to all of them without becoming subject to any one of them (n.20).

Every possible aspect of the relationship of the Catholic faith to the cultures of the world is discussed in this exhortation. However, Pope John Paul II's recent encyclical *Redemptoris Missio*²⁵ goes on further and provides clarity in this regard. Responding to the relationship between faith and culture he says:

²⁴ PAUL VI, Apostolic Exhortation *Evangelii Nuntiandi*, AAS 68 (1976) 1-96.

²⁵ JOHN PAUL II, Encyclical Letter *Redemptoris Missio*, AAS 83 (1991) 249-340.

The process of the Church's insertion into people's cultures is a lengthy one. It is not a purely external adaptation, for inculturation 'means the intimate transformation of authentic cultural values through their integration in Christianity and the insertion of Christianity in the various human cultures'. The process is thus a profound and all embracing one, which involves the Christian message and also the Church's reflection and practice.

Through the inculturation the Church makes the Gospel incarnate in different cultures and at the same time introduces peoples, together with their cultures, into her own community. She transmits to them her own values, at the same time taking the good elements that already exist in them and renewing them from within.(n.52).

It is not of course a matter of missionaries renouncing their own cultural identity, but of understanding, appreciating, fostering and evangelizing the culture of the environment in which they are working, and therefore effectively with it, adopting a manner of living which is a sign of Gospel witness and of solidarity (n.53).

The Church has had an impressive tradition of adaptation to local cultures, customs, languages, and style of life too, when one looks at the variety of rites in the Church, it is remarkable to note how careful the Church was to respect local customs and languages. Speaking on this truth, Pope Paul VI in one of his addresses in Jerusalem described the early Church practices in the following manner:

'It was in Palestine, first of all, that the apostles established faith in Jesus Christ and founded churches. Then they set out across the whole world and announced throughout the world the same doctrine and the same faith'(Tertullian). Each nation received the good seed of their preaching according to their own mentality and their own culture. Each local church grew with its own personality, its own customs and its own personal way of celebrating the same mysteries, without this harming the unity of faith and the communion of them all in charity and respect for the order established by Christ. That is the origin of our diversity in unity and our catholicity, always an essential property of the Church of Christ, and of which the Holy Spirit has given us a new experience in our time and in the Council.²⁶

²⁶ PAUL VI, *Address in St. Anne's Church Jerusalem*, 4 January 1964, AAS 56 (1964) 162-163.

2.5. Preservation of Spiritual Patrimony

Spirituality in the strict sense consists of the particular way of conceiving and realizing the Christian life. Hence we have a plurality of spiritualities, which has three elements corresponding to the three important components of a human being: the intelligence to be satisfied with doctrine, the will with piety and the inner man with the intimacy with God.²⁷ According to P. Toon, "it is the particular way of conceiving the goal and aim of the Christian life; and also, the particular way of practically working and moving towards this goal and aim".²⁸ But the spiritual patrimony of a Church means all the theoretical and practical means used by the Church for the sanctification of man, that, is for the realization of the Gospel in the life of her children.²⁹

The spiritual patrimony of a particular group or a particular Church is the distinctive expression of its historical religious experience. It is found interwoven in its liturgical rites, discipline, doctrine, institutions, and the character of its members.³⁰ But, in the decree of Ecumenism *Unitatis Redintegratio*, this spiritual patrimony is used as character (UR n.16). According to the decree on Eastern Churches, *Orientalium Ecclesiarum*, the special characteristic of the spiritual life is the peculiarity and the authenticity of the ecclesial life and Christian witness of a particular group of people. Emphasis in OE nn. 5 and 6 is on the "preservation of the spiritual heritage of Eastern Churches" which includes the liturgical, ecclesiastical and spiritual heritage and right to govern themselves to their own discipline. All these elements are seen in an organic unity among themselves and this unity forms part of the spiritual heritage. In concrete, the spiritual patrimony consists of the riches of ecclesial life. The migrants are the partakers of this richness or they become the bearers of this spiritual patrimony wherever they go.

²⁷ P. YOUSIF, "An introduction to the East Syrian Spirituality", in *The East Syrian Spirituality*, ed., A. THOTTAKKARA, Rome, 1990, p. 75.

²⁸ P. TOON, *What is Spirituality and is It for Me?* London, 1989, p. 17.

²⁹ Cfr. A. THOTTAKKARA, ed., *The East Syrian Spirituality*, op. cit., p. 1.

³⁰ Cfr. BASSET, *The Determination of Rite*, op. cit., p. 246.

2.6. Preservation of Linguistic Patrimony

The concern of the Church towards the right of the migrant faithful especially the right of the preservation of one's own mother tongue in his new country of residence, has been well-expressed both in the *motu proprio Pastoralis Migratorum Cura* and in the Instruction *De Pastoralis Migratorum Cura*, and later in the circular letter *Chiesa e Mobilità Umana*. All these documents are well-aware of the dangers inherent in the life of migrants, who are unable to make use of the ordinary pastoral service of the parish because of the language barrier. The spiritual life of the faithful in the Church is normally cared for through the parish structures. The parish priest is the pastor of souls, who in the Church's name must take care of this faithful so that they, through the ministry of the Church, can live fully their Christian life and obtain eternal salvation. In this situation migrants find themselves abandoned, not because of the lack of parishes or priests, but because of the lack of knowledge of the language. By language is intended not only the language itself but the whole cultural world of which language is the vehicle.³¹ From this perspective the Instruction exhorts the Ordinaries to esteem these migrant faithful and to provide appropriate means to preserve their cultural and spiritual patrimony. Therefore, as the best means the Instruction *De Pastoralis Migratorum Cura* itself foresees the importance of the preservation of their mother tongue and the benefit of pastoral care by means of their own priests in the following statement:

Migrating people carry with them their own mentality, their own language, their own culture, and their own religion. All of these things are parts of a certain spiritual heritage of opinions, traditions, and culture which will endure outside the homeland. Let it be prized highly everywhere.

Not least in its right to consideration is the mother tongue of emigrant people, by which they express their mentality, thoughts, culture and spiritual life.

Since these last are the natural media for knowing and opening the inner man, the care of migrating people will indeed bear fruit if it is carried out by persons who know them all well (i.e., the mentality, thoughts, culture, and spiritual life) and who are fully proficient in the people's language. Thus is

³¹ Cfr. V. DE PAOLIS, "Missionario per i Migranti: Carisma, Compiti e Preparazione," in *On The Move* 39 (1983) p. 159.

confirmed the already-obvious advantage of caring for people who migrate through priests of their own language, as this as long as usefulness indicates (n.11).

Thus, the Instruction affirms the inviolable right of the protection of the migrants' language and, at the same time, insists on the need of the specific pastoral care through priests of their own language. In this way the Church wants to avoid all the dangers in the life of the migrant faithful.

It is true in the case of the Oriental migrants too. It is not sufficient to have a pastor who knows the language of the migrants; it is of importance that he must be the one who shares their spiritual patrimony.³² Therefore we must provide a special pastoral care through the priests of their own Churches according to the teaching of *Orientalium Ecclesiarum* n.4, *Christus Dominus* n.23, and *Lumen Gentium* n.23. When one considers all these aspects, then only the words of the Pope Paul VI will be fully realized as he intended. In his *motu proprio Pastoralis Migratorum Cura*, after having treated the most important passage of the Decree on the Pastoral Office of Bishops in the Church, n. 18, he continues:

Now, it is easy to understand that it is not possible to fulfill effectively this pastoral care if the spiritual patrimony and the special culture of the migrants are not taken into due account. In this respect, the national language in which they express their thoughts, their mentality and their very religious life are of great importance.³³

3. Various Pastoral Structures for the Pastoral Care of Syro-Malabar Migrants

Every juridical institution, whether in the Universal or particular Church, presents a proper structure. We are talking about various pasto-

³² For example we have many missionaries now in all over the world, especially in the various dioceses of Latin Church. But they are not well-equipped in regard to Oriental matters, because they got the priestly formation fully in the background of their present Church, that is, the Latin Church. The things they acquired from their early childhood are not enough to give specific pastoral care for the migrants of their own Church. But we can say it is better than nothing.

³³ DSS n.1975.

ral structures which mean all ecclesial ministry and organization legitimately established by the competent authority at the service of the migrants or, in other words, for the service of the People of God and for the salvation of their souls.³⁴ Both the 1983 Code of Canon Law and the new Oriental Code provide various structures for this specific pastoral care of migrants. The specific characteristic is exactly the fact that, since migrants are unable to make use of the ordinary pastoral care offered by the local parish priest, they need a priest who knows their liturgy, their language, one well-versed in their ecclesial patrimony.

With the above-mentioned assistance, the communities of migrants are not only able to keep their faith intact, but also can be its witnesses and heralds like the early Christians.³⁵ The Encyclical *Redemptoris Missio* states: "In the early centuries, Christianity spread because Christians, travelling or settling in regions where Christ had not yet been proclaimed, bore courageous witness to their faith and founded communities there" (n.82). This same principle is found in the letter *Church and People on the Move*. It says: "In many cases, the movement of people has exercised a determining or at least notable influence on the birth and growth of new Churches" (n.9). On the basis of this principle we will examine various ecclesiastical structures which both Codes provide for the pastoral care of Syro-Malabar Migrants.

3.1. Particular Churches or Eparchies

A significant dimension of both Codes of Canon Law is the recognition of the importance of the particular Churches,³⁶ as those in which and from which the Universal Church of Christ exists.³⁷ According to these two Codes the particular Churches are the local realizations of the

³⁴ J. BEYER, "The New Code of Canon Law and Pastoral Care for People on the Move," in *Migrations: Interdisciplinary Studies*, vol. I, Vatican City, 1985, p. 175.

³⁵ Cfr. V. DE. PAOLIS, "The Communitarian Dimension in the Experience of Faith in a Context of People on the Move," art. cit., p. 52.

³⁶ The term "particular church" is used only once in the new Oriental Code. Cfr. can. 177 §1. But It appears sixty-five times in the new Code of Canon Law. Besides it, the terms *Ecclesiae rituales* and *Ecclesiae Latinae* are used six times each. For the Oriental Code *Ecclesia particularis* is equal to *Eparchy* (CCEO cans. 177, 178 and 179).

³⁷ CIC can. 368; CCEO can. 177 §1, CD n.11.

one Church of Christ,³⁸ that implies an exchange between the Gospel and the life, traditions, and customs of the people to whom it is preached.

The term *Ecclesia particularis* is not used in the same sense throughout the documents of the Second Vatican Council. In the Decree on the Bishops' Pastoral Office *Ecclesia particularis* means *diocese*, while in the Decree on the Eastern Catholic Churches it signifies *Ecclesiae sui iuris*, namely *Ecclesiae particulares seu ritus* (OE n.2). In the decree on the Missions it is *Ecclesiae novellae*, with the third chapter entitled *De Ecclesiis Particularibus*, signifying *novae Ecclesiae particulares* (AG n.22) in the sense of diocese. But the Dogmatic Constitution on the Church, *Lumen Gentium* uses the term in the sense of *congregatio localis fidelium* (LG n.26), and *communitas localis* (LG n.28).

Therefore, the term "particular Church" (except in the sense of *Orientalium Ecclesiarum*) points to the relationship of the one unique subject, the Church, to a part of the totality of the baptized. In this sense, *Christus Dominus* considered particular Churches as equivalent to dioceses, when it said:

A diocese is that portion of the People of God which is entrusted to a bishop to be shepherded by him with the co-operation of the presbyters. Adhering thus to its pastor and gathered together by him in the Holy Spirit through the Gospel and the Eucharist, this portion constitutes a particular Church of Christ in which the one, holy, Catholic and apostolic Church of Christ is truly present and operative (CD n.11).

Commenting on this definition, Father Ghirlanda identifies two distinct concept regarding the particular Church. With regard to the first concept, he states, "this definition also directly encompasses the element of government and indirectly that of space. It consists of the communion of the baptized as governed by the bishop, a communion that is normally found within a clearly-defined territory, although no explicit reference is made to the territorial element, inasmuch as personal dioceses can also

³⁸ LG nn.13, 23, CD n.11, UR n.15, AG n. 19; Cfr. THOMAS J. GREEN, "Particular Churches and their Groupings", in *The Code of Canon Law: A Text and Commentary*, art. cit., p. 311.

exist. ...Lastly, it should be stated that the Council nearly always identifies particular Church with diocese.”

The second concept according to him is “to be found in the Council documents, and this is the communion of a part of the People of God that, while acknowledging the primacy of the See of Peter, has its own discipline, liturgical customs, theological and spiritual heritage. This definition also includes the elements of persons, territory (although not necessarily), government and culture. In this sense, the expression “particular Church” generally refers to the patriarchates, which have patriarchs at their head, or to Churches that are similar to patriarchates, some as major archbishoprics, presided over by archbishops, or dioceses or groups of dioceses that have their own cultural traditions. The variety of all these particular Churches that are encompassed in the one unity clearly expresses the catholicity of the one and undivided Church.”³⁹

Together with the definition, however, the decree *Christus Dominus* presents the essential elements of a particular Church, that is, diocese or eparchy; they are: community, the bishop and priests (CD n.11). Here community identifies with the “portion of the People of God”, lives the same Word and the same Sacrament; while the bishop is present within the community as the vicar of Christ exercising the sacred power given to him in his episcopal ordination⁴⁰ in the name of Christ, and the priests are the “prudent co-operators with the episcopal order” who are “called to serve the People of God”, thus they “constitute one priesthood with their bishop” (CD n.28; LG n.28).

Accordingly, the definition of “particular Church” found in both Codes (CIC can. 368 and CCEO can. 177) is completely in keeping with the teaching of Vatican II, especially in the sense of *Christus Dominus* n. 11. This is applied to dioceses or eparchies (CIC can. 369 and CCEO can. 177), territorial prelatures and abbacies (CIC can. 370), apostolic vicariates or prefectures (CIC can. 371 §1), and apostolic administrations (CIC can. 371 §2). The personal element can be seen in all these definitions, that is, a portion of the People of God and its government.

³⁹ G. GHIRLANDA, “Universal, Particular, and Local churches”, art. cit., pp. 242-243.

⁴⁰ Communicationes 18 (1986) 66.

Regarding the territorial element, it is clearly stated that the portion of the People of God is normally restricted to a specific territory, although it is a generally well-accepted fact that within the same territory particular Churches can be set up that are distinguished on the basis of the rite of the faithful or some other reasons (CIC can. 372).

The Church is in fact a society, visible, hierarchical, and endowed with certain organisms fitted to carry out its mission among the People of God. Among these organisms, the first in order of importance is the particular Church, in the sense of diocese, the head and pastor of which is competent, as a successor of the apostles, to exercise the triple function of teaching, sanctifying and governing.⁴¹ Therefore, the parishes (CIC can. 374 and CCEO can. 279) and the dioceses constitute the backbone of Church organization which, however, can allow other intermediary degrees (CD n.32; ES n.I, 21). In them the faithful, gathered round their pastor, live their Christian life, receive the spiritual nourishment of the sacraments and of the Word of God, which enable them to obtain that degree of perfection willed by Christ (AA n.10).

3.1.1. The Territorial Diocese and Personal Diocese

Generally particular Churches have been associated with territory, but the revised Code of Canon Law and the new Oriental Code do not include territory as an essential or constitutive element in describing particular Church (CIC can. 369, CCEO can. 177). However, it is considered as the ordinary means of identifying that portion of the People of God which will be recognized as a particular Church (CIC can. 372 §1). The idea of territory is also linked to the culture of a determined group of people in a particular place, that is, the nature or character of the people, its capacity and inclinations, whose history cannot be conceived outside of a precise geographical context, for example, Greco-Roman culture, Anglo-Saxon culture, etc., which are profoundly conditioned in a particular territory such as the Mediterranean area and northern Europe. Therefore, if the culture contributes to determining the identity of a particular Church (the unique mystery of Christ, which is manifested in

⁴¹ LG nn.12-16; 24-27.

various ways according to the different culture of the people), territory cannot be considered as an exterior and secondary element, but is useful only in deciding its material distinction from the other.⁴²

If we consider the sacramental element in the Church, territory does not assume a minor relevance. The ecclesial community is called to overcome the divisions in humanity, as St. Paul said: "there is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female, for you are all one in Christ Jesus" (Gal 3:28). This unity can be manifested in its fullness in a territory because of the link between the territory and the real life of the people and, it comprises also the variety of charisms in the life of the People of God.

The concept of territory in Canon Law is very different from the concept in Civil Law. For the new Codes, the ultimate criterion for the erection of new dioceses or particular Churches as well as parishes, is the People of God, not the territory as such. Vatican II elucidates this point:

The diocese that portion of the People of God which is entrusted to a bishop to be guided by him with the assistance of his clergy so that, loyal to its pastor and formed by him into one community in the Holy Spirit through the Gospel and the Eucharist, it constitutes one particular Church in which the one, holy, catholic and apostolic Church of Christ is truly present and active (CD n.11).

Territory, on the other hand, does not constitute a diocese or a parish as such, but is merely one of the diverse ways in which to determine a portion of the People of God. In a Plenary Assembly of the Congregation for the Clergy in 1984, Pope John Paul II remarked in specific regard to the parish (CIC can. 515 §1):

Further, it is indispensable that the urban parish be configured more and more according to the image proposed by the current Code of Canon Law, the emphasis is placed no longer on the territory, but on its character as community of persons.⁴³

⁴² ADOLFO LONGHITANO, "Chiesa Particolare e Chiesa Universale", in *Il Diritto nel Mistero della Chiesa*, a cura del gruppo italiano docenti di Diritto Canonico, Quaderni di Apollinaris, PUL, Roma, 1990, p. 351.

⁴³ *L'Osservatore Romano* (English Edition), 3 December 1984, p. 4.

In clarifying this principle, it is very opportune to go back to the formation period of the revised Code of Canon Law. Among the ten principles approved by the Synod of Bishops in 1967, the eighth principle "*De ordinatione territoriali in ecclesia*" gave the criteria for the establishment of the diocese and of the parish.⁴⁴ Based on this principle, Mons. Secretary gave further explanation in detail against the argument of two consultors about the concept of territory and Personal Prelature which is also applicable here. Following is the substance of his explanation:

The particular Church or diocese <<is the portion of the People of God whose pastoral care is entrusted to a bishop in cooperation with his priests>> (CD n. 11); therefore, the three essential constitutive elements are: the Pastor, priest and people; to them one has to add the formal element--the erection--but not the territory, which is only a delimitative canonical criteria adopted as a general rule and not exclusively; therefore, the Council has sanctioned the possibility of Dioceses and Personal Prelatures, that are not delimited by territory but by other criteria (that can be very different, that which are always juridically precise).

Mons. Secretary again reaffirmed that it has already foreseen by the Council (PO n.10), is the possibility of a Diocese and Personal Prelature not only for ordinary <<pastoral care>> (as has already happened <<or by the reason of rite>>, or in the case of Military Vicariates), but also for the realization of a peculiar pastoral activity of a specialized nature.⁴⁵

Later, this same argument regarding the principle of territoriality again arose and echoed at the time of the *Animadversiones Generales* for

⁴⁴ We have already treated this point in the beginning of this chapter. Cfr. pp. 220-224 and Chapter III, pp. 124-126.

⁴⁵ Mons. Segretario, contrariamente a quanto affermato dai due predetti Consultori, risponde che: "La Chiesa particolare o Diocesi <<est Populi Dei portio, quae Episcopo cum cooperatione presbyterii pascenda concreditur>> (Decr. *Christus Dominus*, n. 11); pertanto, i tre elementi costitutivi essenziali sono: il Pastore, il presbiterio e il popolo; ad essi si aggiunge l'elemento formale-l'erezione--ma, non il territorio, il quale è soltanto un criterio canonico delimitativo adottato come regola generale e non esclusiva; perciò il Concilio ha sancito la possibilità delle Diocesi e Prelature personali, delimitate cioè non dal territorio ma da altri criteri (che possono essere molto diversi, sempre che siano giuridicamente precisi)." Mons. Segretario ribadisce che è prevista dal Concilio (cf. *Presbyterorum Ordinis*, n.10) la possibilità di diocesi e prelature personali non soltanto per la ordinaria <<cura pastoralis>> (come già avviene <<ratione ritus>>, o nel caso dei Vicariati castrensi), ma anche per la realizzazione di peculiari attività pastorali a carattere specializzato." Cfr. *Communicationes*, 12 (1980) 276-277. (Translation is ours).

Liber II: De Populo Dei. Following are the main observations given by the Fathers:

1. a) The canons respond faithfully to the doctrine of the Decree *Christus Dominus*, n.11, so that particular Church may not be understood first of all as a territory, but as a <<portion of People of God>>;
- b) excepting the ritual diocese, it must be kept in the schema that the territorial circumscription is always required for the particular Churches or Dioceses, and even other portions of the People of God who are assimilated to a particular Church, for instance territorial prelatures, Abbacy, Vicariate Apostolic, Prefecture Apostolic and Apostolic Administration which are erected in a stable manner.
2. In these canons the necessary principle of territoriality is not sufficiently observed; this is contrary to what was strictly established in the CIC of 1917, and with reason, because the organized structure of the Church in the local Churches comes from the same eucharistic structure.⁴⁶

Based on the traditional principle, the legislator wanted to emphasize that territory is the normal criteria for the distinction of particular Churches: "As a rule, the portion of the people of God which constitutes a diocese or other particular Church is to have a defined territory, so that it comprises all the faithful who live in that territory" (CIC can. 372 §1). However, the same legislator gives other indications in relation with the erection of new diocese in the same territory, since territory alone cannot be considered as the only material criteria to distinguish one church from others. Actually various aspects such as customs and culture, rite, different languages (po n.10 and CIC can. 372 §2) all contribute to determine the place where the mystery of Christ is manifested.

⁴⁶ 1. Placent ii canones, quia: a) fideliter respondent doctrinae Decr. *Christus Dominus*, n. 11, ita ut Ecclesia particularis non intellegatur primarie tamquam territorium, sed tamquam <<portio populi Dei>>; b) exceptis Dioecesibus ritualibus, servatur in schemate principium iuxta quod semper requiritur circumscriptio territorialis ut habeantur Ecclesiae particulares seu Dioeceses, immo et aliae populi Dei portiones quae Ecclesiae particulari assimilantur, nempe Praelatura territorialis, Abbatia, Vicariatus Apostolicus, Praefectura Apostolica atque Administratio Apostolica stabiliter erecta.

2. His in canonibus non sufficienter servatur necessarium principium territorialitatis, quod e contra rigore statuebatur in C.I.C. anni 1917, et merito quidem, quia structura organizativa Ecclesiae in Ecclesiis localibus eruitur ex ipsa structura eucharistica. Cfr. *Communicationes*, 14 (1982) 201.

Therefore, the Eucharistic structure manifests the Church as a sacrament of unity in a determinate place. Each one joins here together with his own bishop. The Code of Canon Law agrees with this principle when it says:

In the Eucharistic assembly the People of God are gathered together under the presidency of the bishop or of a priest authorized by him, who acts in the person of Christ. All the faithful present, whether clerics or lay people, unite to participate in their own way, according to their various orders and liturgical role (CIC can. 899 §2).

It is the community of faithful gathered together with their bishop which guarantees the authenticity of the particular Church and her communion with the Universal Church; a specific experience of faith determine the identity of each Church.

3.1.2. Presence of Oriental Churches in the Diaspora

From the time of Fourth Lateran Council (1215), the presence of the Orientals was very common in every nook and corner of the world. However today’s large-scale migration from the various Eastern Churches especially to Western Europe, America, Canada, Australia and within countries like India and Africa, urges the Universal Church to recognize the identity of the Oriental Churches in the various parts of the world. For this reason, the Holy See has gradually erected various eparchies of Eastern Churches everywhere in the globe both territorially and personally. In such a manner we can also find various personal and territorial parishes instituted by number of hierarchs in favour of these oriental migrants over all the world. Thus, the Universal Church has recognized this identity and is continuously practicing it as the best solution for responding to the present day human mobility. Therefore, at present there is multiple jurisdiction in a number of Sees. To know this reality, the *Annuario Pontificio* of 1993 gives us some idea of the presence of the various Oriental Churches especially in the midst of the predominantly Latin areas of the world.

Oriental Eparchies in Latin Rite Areas

<u>Maronites</u>		<u>Ukrainians</u>	
Brazil	1 Ep.	Poland	1 Ex. Ap.

U.S.A.	1 Ep.	U.S.A.	1 Metr.
Canada	1 Ep.		3 Ep.
Australia	1 Ep.	Canada	1 Metr.
			4 Ep.
<u>Italo-Albanians</u>		Gt. Britain	1 Ex. Ap.
Italy	2 Ep.	Australia	1 Ep.
		Germany	1 Ex. Ap.
		France	1 Ex. Ap.
<u>Melkites</u>		Brazil	1 Ep.
Brazil	1 Ep.	Argentina	1 Ep.
U.S.A.	1 Ep.		
Canada	1 Ep.	<u>Chaldeans</u>	
Australia	1 Ep.	U.S.A.	1 Ep.
Mexico	1 Ep.		
<u>Rumenians</u>		<u>Armenians</u>	
U.S.A.	1 Ep.	Poland	1 Archep.
		France	1 Ep.
		S. America	1 Ex. Ap.
<u>Ruthenians</u>		U.S.A.	1 Ex. Ap.
U.S.A.	1 Metr.		
	3 Ep.		
<u>Slovaks</u>		<u>Common Ordinaries</u>	
Canada	1 Ep.	Argentina	1
		Austria	1
<u>Syro-Malabarians</u>		Brazil	1
Outside Kerala	9 Ep. ⁴⁷	France	1 ⁴⁸

⁴⁷ The present territory of the Syro-Malabar Church is covering the two Ecclesiastical Provinces of Ernakulam and Changanacherry. Among these 9 eparchies only the eparchy of Kalyan is specifically erected for the Syro-Malabar Catholic migrants and the rest is erected properly as mission eparchies for the Syro-Malabar Church.

⁴⁸ Sigla: Ep. = Eparchy = diocese; Archep. = Archeparchy; Ex. Ap. = Apostolic Exarchate; Metr. = Metropoly.

3.2. The Territorial and the Personal Parish

In the constitution of parishes, the previous Codes, both CIC 1917 and *Cleri Sanctitati*, used territory as the exclusive criterion. The affirmation of these two Codes we have seen and discussed in the last chapter. Actually, such precepts have been superseded by events and other Church documents, particularly by the Apostolic Constitution *Exsul Familia*, the Decree *Christus Dominus* and the eighth principle on the Church's territorial organization among the guiding principles for the revision of Code of Canon Law approved by the 1967 Synod of Bishops. Thus, today, we have ample sources against the sole criterion of the previous Codes.

The section on parish ministry begins with a definition; it is a new canon for both Codes (CIC can. 515 §1 and CCEO can. 279), which describes the parish as:

A certain community of Christ's faithful, stably established within a particular Church, whose pastoral care, under the authority of the diocesan Bishop, is entrusted to a parish priest as its proper pastor.

While reaffirming the territorial parish, both Codes recognize the establishment of parishes that *paroecia regula generali sit territorialis* and, at the same time, foresee the following norm *ubi vero id expediat, constituentur paroeciae personales, ratione ritus, linguae, nationis christifidelium alicuius territorii atque alia etiam ratione determinatae* (CIC can. 518 and CCEO can. 280 §1). While the establishment of such parishes always depends on the particular motivation, it aims at the benefit of society as well. Therefore, its erection is the duty of the competent authority, because in making pastoral choices, no criterion other than the good of souls is to be evaluated according to the general directives which govern the pastoral action.⁴⁹

Prof. Velasio De Paolis call the personal parish the most important structure of the 1983 Code of Canon Law, and the one of the greatest assistance to migrants at the practical level. The language used in can. 518 with regard to the establishment of personal parishes is the language

⁴⁹ V. DE PAOLIS, "The Communitarian dimension," art. cit., p. 28.

of obligation.⁵⁰ The basic principle is that the people involved in human mobility should be offered the same pastoral care as other faithful --an assistance with a priest of same rite and language, a recognition of their spiritual patrimony without forced integration in the new society of arrival and finally a specific pastoral care as their necessity demands.⁵¹ The normal ordinary structure for this pastoral care is precisely the parish. But, when a territorial parish can not render this extraordinary pastoral care, migrants are offered the only possibility by means of this personal parishes. Therefore, to actualize this pastoral care in a particular Church, both Codes focus on a main criterion, that is, the community of faithful who exceeds the general principle of territory and is exemplified on the basis of rite, language, etc.

The eventual establishment of a personal parish must respond to a real need which is expressed in both codes in the same words *ubi vero expediat* (CIC can.518 and CCEO can. 280 §1). But neither Code gives the exact criteria for an easy judgement except rite, language and nationality.

We have many other sources in support of this canon as we have seen in the last chapter. Yet another source is the pastoral directory of Bishops no. 174. Affirming the principle of the territoriality of the parish, it states:

Nevertheless, if it is necessary for the good of souls, personal parishes are to be established, that is to say, formed not on the basis of a particular territory, but determined by the sociological homogeneity of those who are part of it (for example, immigrants of another nationality or speaking another language, etc.): in these cases, careful provisions for the validity of the ecclesiastic procedures should be made.

Following the same line of thought in considering the complex nature of the phenomenon of people on the move, the Instruction *De*

⁵⁰ V. DE PAOLIS, "L'Impegno della Chiesa nella pastorale della Mobilità Umana: secondo il Codice di Diritto Canonico", in *Orizzonti Pastoralis Oggi: Studi interdisciplinari sulla Mobilità Umana*, 2nd ed., a cura di Congregazione per l'Educazione Cattolica e Pontificia Commissione Migrazioni e Turismo, Città del Vaticano, 1987, p. 148.

⁵¹ V. DE PAOLIS, "La Pastorale dei Migranti nelle Direttive della Chiesa: Percorsi di Comunione Interculturale," in *Monitor Ecclesiasticus* 115 (1991) 221.

Pastorali Migratorum Cura provides the general criterion in no. 12, as follows:

The manner, juridical forms, and useful duration of the care of immigrant people should be carefully considered in each and every case and adapted to the circumstance.

In accordance with this general principle, the circumstances to be taken into account in this specific pastoral care are listed as follows:

Among such circumstances we may list a few, namely: the duration of immigration; the process of becoming integrated (first or following generations); differences of civil cultures (speech and rite); the manner of migration, that is whether it is periodic, stable or temporary, whether it occurs in small groups or large, and whether it is geographically confined or spread out. It can escape no one that the principal character of the service of souls to be offered by the Church should be this: that it be always suited to the needs of the immigrant people and that it remain adapted to them.

Therefore, the people on the move require the creation of new pastoral structures for evangelization. A personal parish is a symbol of a new structure. In addition, it is an extraordinary pastoral structure in the sense that it represents an exception to the general rule from a territorial parish. This exception does not mean that a personal parish is an alternative to a territorial parish, but rather complementary.⁵² Thus, personal parishes are meant primarily for the preserving of the faith of migrants intact and give a full support for them to remain in the new country of residence like others.

3.3. Mission with Care of Souls

We cannot find this juridical structure in the 1983 Code of Canon Law nor in the new Oriental Code. This structure is the fruit of the long juridical practice of the Church. As regards the Mission with Care of Souls, there is a special structure provided by the Constitution *Exsul*

⁵² V. DE PAOLIS, "L'Impegno della Chiesa nella Pastorale della mobilità Umana," art. cit. p. 150.

*Familia*⁵³ and later confirmed by a declaration of the Congregation of Bishops, carried as a note⁵⁴ in the Instruction dated 21 November 1966:

A Diocesan bishop in his diocese can, on his own authority, set up not only a personal parish but also a mission with care of souls for faithful of a different language or nationality, provided that the territory of the said mission be clearly and suitably defined and that the care of the immigrant faithful be committed to a missionary for immigrants of their own language.

However, the Code of Canon Law foresees another possibility that if a parish cannot be constituted for a community of migrants in a stable manner as mentioned in can. 518, the diocesan Bishop can provide spiritual care in some other way:

Where some communities cannot be established as parishes or quasi-parishes, the diocesan Bishop is to provide for their spiritual care in some other way (can. 516 §2).

Reference to this specific pastoral care can be found in the Instruction *De Pastoralis Migratorum Cura* and in the *Directory on the Pastoral Ministry of Bishops*. According to *De Pastoralis Migratorum Cura* the Mission with Care of Souls is suitable for “those places where the migrating people have not yet taken up a stable residence” (DSS n.2065). But the *Directory on the Pastoral Ministry of Bishops* gives an accurate structure for this specific ministry in stating:

Missions with care of souls means an ecclesiastical office by which the Bishop confers some priest who is not a pastor to undertake for a stated time, the care of souls in the same manner as a pastor, in a determined place which is within a territory of an actual parish, but whose pastor cannot adequately care for these faithful. To avoid conflicts of competence, everything must be well-determined by the Bishop in writing, after having heard the interested parish priest (n.183).

Therefore, a Mission with Care of Souls works within the parochial structure; it could be established within the confines of the territorial parish or in several parishes, especially in circumstances where the pastor of the territorial parish may not be able to give pastoral care

⁵³ Cfr. DSS nn. 1212-1221.

⁵⁴ Cfr. note 53 of the Instruction *De Pastoralis Migratorum Cura*.

according to the needs of the migrants. This aspect is well-defined in the Instruction *De Pastoralis Migratorum Cura* (DSS n.2046). But, from a juridical point of view, Mission with Care of Souls is not like a parish, although in practice it is considered to be on the same plane. The priest to whom this work is entrusted “enjoys proper power, with the corresponding adaptations, and is equivalent to a pastor”.⁵⁵

3.4. The Personal Prelatures

Personal Prelatures are one of the many fruits of the Second Vatican Council. The main reasons for the establishment of this new structure are stated in the Decree on *Presbyterorum Ordinis* n.10, as follows:

Where the nature of the apostolate demands this, not only the proper distribution of priests should be made easier but also the carrying out of special pastoral projects for the benefit of different social groups in any region or among any race in any part of the world. For this purpose there can be set up some international seminaries, special dioceses, or personal prelacies and other institutions... to which priests can be attached or incardinated for the common good of the whole Church.

Therefore, these personal prelatures aim to give priests greater flexibility in responding to the specialized pastoral, such as needs of the human mobility, and also in exercising the apostolate in various forms. Following this conciliar insight, then, the *motu proprio Ecclesiae Sanctae* I, 4, has canonically delineated this matter and presented a short sketch or frame. It dealt with its notion, formation for and incardination in the prelature, the relationship between the prelate heading the prelature and its priests, involvement of the laity, establishment of the prelature and its relationship to local ordinaries and to the conference of bishops.⁵⁶ Later, especially during the renewal of the Roman Curia, Paul VI, through the Apostolic Constitution *Regimini Ecclesiae Universae*, gave a special task to the Congregation for Bishops to establish Prelatures under its authority.⁵⁷ Now the new Apostolic Constitution *Pastor Bonus*, follows the same line of previous document, “ Whatever concerns the Holy See

⁵⁵ Cfr. V. DE PAOLIS “The Communitarian Dimension,” art. cit., p. 50.

⁵⁶ PAUL VI, *Motu Proprio Ecclesiae Sanctae*, AAS 58 (1966) 758-787.

⁵⁷ 49 §1: “Ad Congregationem pro Episcopis spectat, ... Vicariatus Castrenses erigere necnon, auditis Conferentiis Episcoporum territorii, Praelaturas ad peculiaria opera pastoralia

regarding the personal prelatures is the competence of this Congregation.⁵⁸

Actually, the Instruction *De Pastoralis Migratorum Cura* was the first document to respond to the call of Vatican II for the application of the personal prelature, that is, to undertake the peculiar pastoral works for migrants. The impulse of this Instruction is found in the following quotation:

Following the norms of the motu proprio Letter *Ecclesiae Sanctae*, the same Congregation for Bishops, having heard the bishop's conference which are involved--or if some bishop's conference itself requests--in order to provide spiritual care for some groups which are large in number, can erect 'prelatures composed of priests from the secular clergy equipped with special training.... These prelature are under the government of their own Prelate and possess their own statutes'(DSS n.2008).

It is opportune to note that this juridical institute which was proposed by Vatican II and later the motu proprio *Ecclesiae Sanctae* was not admitted or received in the new Oriental Code. After the study of cans. 294-297 of CIC, the *Coetus* of the Oriental Code decided that these canons are not congenial to the tradition and mentality of the oriental Christians and, therefore, they decided to remove these canons from the common Code for all the Oriental Churches. However, it opens a door to future particular laws of *Ecclesiae Sui Iuris*.⁵⁹ In the light of this possibility, let us examine cans. 294-297 of 1983 Code of Canon Law.

perficienda pro variis regionibus aut coetibus socialibus speciali adiutorio indigentibus. Cfr. Paul VI, Apostolic Constitution *Regimini ecclesiae universae de romana Curia*, AAS 59 (1967) 885-928.

⁵⁸ *Pastor Bonus* art. 80: "Ad hanc congregationem pertinent ea omnia, quae ad sanctam Sedem spectant circa praelaturas personales".

⁵⁹ "La questione relativa all'opportunità o meno di recepire nel CICO la nuova figura giuridica della *prelatura personale*, cioè i cann. 294-297 del CIC, è stata trattata per prima, il 10 ottobre mattina. Benchè fossero consapevoli dell'importanza di questa nuova figura giuridica per la Chiesa latina, i componenti del gruppo di studio hanno convenuto che essa non è congeniale alle tradizioni ed alla mentalità dell'Oriente cristiano e pertanto non sembra opportuno recepirla in un Codice comune a tutte le Chiese orientali. Del resto il silenzio del CICO in questa materia, lascia sufficientemente aperta la porta a quelle Chiese *sui iuris* che in futuro vorranno introdurre nella loro disciplina canonica questo istituto giuridico e di equiparare in ciò il loro *ius particolare* a quello proprio della Chiesa latina". Cfr. *Nuntia* 21 (1985) 4-5.

The present brief title, *De praelaturis personalibus*, which is found in Book II, Title IV, was a later addition to the revised Code of Canon Law during the 1982 papal consultation. Actually, we cannot say that it was not dealt with in earlier schemata, but it was included in the original schema of the People of God and treated in can. 217 §2⁶⁰ and is considered in the same way as particular Churches. This text was severely criticized, however, in connection with the introductory canons on particular Churches. That discussion focused on whether or not such personal prelatures were particular Churches, because it tended to treat an association of clerics like other portions of the people of God.⁶¹ However, the 1980 schema⁶² reaffirmed the approach of the original schema, in which can. 335 §2 stated that personal prelatures were the equivalent in law of particular Churches for certain effects, according to the formula, *nisi ex rei natura aut iuris praescripto aliud appareat* and can. 337 §2 described the purpose of personal prelature, ie, *etiam ad peculiaria opera pastoralia vel missionaria*. Can. 339 §2 wanted to qualify the basic principle of territoriality in consideration with the same equation of particular Churches.⁶³ This schema again was criticized even in the 1981 Plenary Session of the Commission, and the reworking of the text was left to the Secretariat of Commission. Later, the Commission, having pre-

⁶⁰ Schema Canonum Libri II: De Populo Dei, Typis Polyglottis Vaticanis, 1977. Canon 217 §1: "Ecclesiae particulares sunt certae Dei populi portiones, in quibus et ex quibus una et unica Ecclesia Christi existit, videlicet Dioeceseos, cui, nisi aliud constet, assimilatur Praelatura et Abbatia cum proprio populo christiano, Vicariatus Apostolicus et Praefectura Apostolica atque Administratio Apostolica stabiliter erecta".

§2: "Ecclesiis particularibus in iure aequiparatur, nisi ex rei natura aut iuris praescripto aliud appareat, Praelatura personalis cui quidem competit clericos sibi incardinare qui mittantur ad servitium sacrum praestandum in aliqua Ecclesia particulari cleri inopia laborante aut destinentur ad peculiaria opera pastoralia vel missionaria perficienda pro variis regionibus aut coetibus socialibus, qui speciali indigent adiutorio". Cfr. SCHEMA CANONUM 1980, pp.15-16.

⁶¹ *Communicationes* 12 (1980) 278-282.

⁶² Schema Codicis Iuris Canonici iuxta animadversiones S.R.E. Cardinalium, Episcoporum Conferentiarum, Dicasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutum vitae consecratae recognitum, Libreria Editrice Vaticana, 1980, cans. 335, 337-339.

⁶³ *Communicationes*, 12 (1980) 277,278; 14 (1982) 201-203.

pared a new schema of 1982 with a few changes, submitted it to the Pope,⁶⁴ who entrusted the 1982 schema to a Commission for final study. The work of this Commission had a significant effect on the question of personal prelatures. Since there has been no published report on the 1982 papal consultation process, it is not entirely clear why the present title has been placed in Part I of Book II.⁶⁵ According to Prof. Dario Composta, the appearance of these canons in Book II means, "this juridical structure cannot be corporated nor are they equivalent to particular churches. It also signifies that Personal Prelatures cannot be identified with ecclesiastical structures based on the principle of territoriality; rather it is set apart for the main criterion is personal".⁶⁶

The first canon of this juridical structure specifies its purpose and highlights the competent authority relative to its establishment. Followed by this, it gives its purpose, that is, the more equitable distribution of the clergy to perform particular pastoral or missionary works for various regions or different social group (CIC can. 294). Since the prelature is to serve individual bishops and Conferences of Bishops, the reference is made understandably to consultation with the episcopal conference before the prelature is set up. Today, the allusion to the Apostolic See should be understood as the Sacred Congregation for Bishops.⁶⁷

The Second canon speaks about the normal government of the prelature. It is to be governed by statutes drawn up by the Holy See within the framework of the canons 294-297, which give a general outline for the identity of the prelature, its specific work, its right and duties, etc., because under this statute they must respond to the various needs of the Churches. Besides this, the canon foresees that each prelature will have

⁶⁴ Codex Iuris Canonici: Schema novissimum iuxta placita patrum Commissionis emendatum atque Summo Pontifici praesentatum, Typis Pliglottis Vaticanis, 1982, cans. 573-576.

⁶⁵ For detailed study on this matter cfr. WILLIAM H. STETSON and JAVIER HERVADA, *Personal Prelatures from Vatican II to the New Code: An Hermeneutical Study of Canons 294-297*, in *Jurist* 45 (1985) 379-418; MICHAEL O'REILLY, *Personal Prelatures and Ecclesial Communion*, in *Studia Canonica* 18 (1984) 439-456.

⁶⁶ DARIO COMPOSTA, "De Praelaturis Personalis," in *Commento al Codice di Diritto Canonico*, ed., P.V. PINTO, Pontificia Universitas Urbaniana, Roma, 1985, p. 171. (Translation is ours).

⁶⁷ *Pastor Bonus*, art. 80.

its own prelatore as its proper Ordinary, who has the right to establish seminaries, incardinate students and promote them to Holy Orders, under the title of service to the prelatore, etc. (can. 295).

The third canon provides for the laity the possibility to dedicate themselves to the same mission and collaborate with that of the priest members of the prelatore; however, every activity of these people should be regulated or determined in the statutes (can. 296).

The fourth and final canon prescribes the right of the Ordinary of the place. The statutes of the prelatore shall define its relationship with the local Ordinaries of the place in whose particular Churches the prelatore itself exercises or is to exercise its pastoral or missionary work. At the same time, canon 297 wants to establish a minimum requirement, namely a prior consent of the diocesan bishop, before going to undertake any specific activity in his own particular Church.

4. Various Ecclesiastical Offices for the Pastoral Care of Syro-Malabar Migrants

The ecclesiastical offices have a great importance in the life of the Church. In the institutional aspect, the Church acts mainly through these offices especially in her administrative activities. But these offices do not have the position of a juridical person⁶⁸; they are mainly the instruments of the Church through which she renders her service for the salvation of souls. In this way these offices also give certainty to the faithful to ascertain their rights in the life of the Church. In the 1917 Code the office was interpreted in two ways, in a strict sense and in a broad sense: in the strict sense it intended the participation in the power of the Church both the order and jurisdiction (CIC 1917 can. 145 §1); in a broad sense it was any function legitimately exercised in the Church for a spiritual purpose. Vatican II in *Presbyterorum Ordinis* n.20, decided that in the future, office in the Church was to be understood as “any function” (munus) conferred in a stable manner for a spiritual purpose. In conformity with

⁶⁸ V. DE PAOLIS-AGOSTINO MONTAN, “IL Libro I del Codice Norme Generali”, in *Il Diritto nel Mistero della Chiesa*, 2 ed., a cura del gruppo italiano docenti di Diritto Canonico, PUL, Roma, 1988, p. 402.

this conciliar action the revised law suppressed the distinction between office in its strict and broad sense.

According to the canons of both Codes, CIC and CCEO, an ecclesiastical office is defined as “any function constituted in a stable manner by divine or ecclesiastical law to be exercised for a spiritual purpose (CIC can. 145 §1 and CCEO can. 936 §1). According to Prof. Pinto there are four main elements in the definition of an ecclesiastical office, which are:

- i. First of all it is a function or responsible position equipped with its proper rights and obligation.
- ii. It is constituted in a stable manner which, however, does not mean in perpetuum, permanently, but essentially it is not transient or temporary in nature.
- iii. It can be constituted either by divine law or by ecclesiastical law.
- iv. It has a spiritual end which is the supreme law of the Church, the *salus animarum*.⁶⁹

But an ecclesiastical office cannot be validly obtained without canonical provision (CIC can. 146 §1 and CCEO can. 938), that is, the grant of an ecclesiastical office by competent ecclesiastical authority (CIC can. 147 and CCEO can. 939). The new Code of Canon Law also provides various possibilities of non-ordained ministers in the participation of these offices according to the teaching of Vatican II (CIC cans. 1421 §2, 1282, 1287 etc.); however, those ecclesiastical offices reserved exclusively for ordained ministers will strictly be defined and interpreted.

As we have seen, every ecclesiastical office in the Universal Church leads to the same spiritual end, *salus animarum*. Therefore, let us look at certain pastoral offices in favour of migrants which have already been foreseen by the Church. The main ecclesiastical offices, as expressed in both Codes and in the Instruction *De Pastoralis Migratorum Cura*, show the importance of these offices on the universal, national, diocesan and parochial levels.

⁶⁹ *Commento al Codice di Diritto Canonico*, ed., P.V. Pinto, Pontificia Universitas Urbaniana, Roma, 1985, p. 86. (Translation is ours).

4.1. On the Universal Level

4.1.1. The Roman Pontiff

The Roman Pontiff, the successor of Peter, Bishop of Rome, head of the College of Bishops, the Vicar of Christ and the Pastor of the Universal Church is the pre-eminent office for the pastoral care of migrants on the universal level of the Church.⁷⁰ *Lumen Gentium* n.18 refers to the office of Peter and his successors as the perpetual and visible principle and foundation for the unity of faith and communion. Hence by divine institution the Pontiff enjoys supreme, full, immediate and universal ordinary power in the Church (LG n. 22).⁷¹ The pope's power is that of a bishop or chief pastor. That which a bishop is responsible to do for the salvation of souls in his own diocese, the pope is responsible to assure in reference to all the Church. By virtue of his office, the Roman Pontiff not only has the power over the Universal Church, but also has the pre-eminent ordinary power over all particular Churches and their groupings. This does not in any way detract from the authority of the bishops in their own dioceses, but is intended rather to support and strengthen it.⁷²

As supreme pastor, the Roman Pontiff has several options for exercising his functions in the Universal Church. He may act personally, such as when he travels to various countries, gives personal witness to the Faith in speeches or writings, or otherwise involves himself in the pastoral activity of the Church;⁷³ he may act through others, such as through the offices of the Roman Curia or other institutions (CIC can. 334; CCEO

⁷⁰ Vatican I in: *Pastor aeternus*, sect.IV, chap.II; CD n.2; LG nn. 18, 20, 22, 23; OE n. 3; UR n. 2, CIC (1917) can. 218 §2, CIC cans. 330, 331, 333; CCEO cans. 43, 45.

⁷¹ Vatican I: in *Pastor aeternus*, Sect. IV, chap. III; CIC cans. 333, 331 and CCEO cans. 43, 45 describes his authority as ordinary (comes with the office), supreme (there is none higher), full (complete), immediate (may relate directly to any person in the church without intermediaries or, in other words, there is no middle party in the exercise of this power), universal (extending to all parts of the church, that is, the churches in full communion with the Catholic Church), and state that the Pope may exercise it freely.

⁷² Vatican I: in *Pastor aeternus*, sect.IV, chap.III; CD n. 2,11; nn. OE 7-11; CIC can. 333 §1; CCEO can. 45 §1.

⁷³ PROVOST, "The Hierarchical Constitution of the Church", in J.A. CORIDEN, T.J.GREEN, D.E. HEINTSCHEL ed., *The Code of Canon Law: A Text and Commentary*, New York-Mahwah, 1985, p. 272.

can. 46); or he may act collegially through the College of Bishops (CIC cans. 336-341; CCEO cans. 49-54).

Obviously, the Roman Pontiff requires many assistants to carry out his manifold duties. Bishops, Cardinals, and many other persons, particularly through certain institutions and groups, provide such assistance. Preeminent among these is the Synod of Bishops (CIC cans. 342-348). Ongoing assistance is provided by the Cardinals (CIC cans. 349-359) and by various offices and services, including the Roman Curia (CIC cans. 360-361; CCEO can. 48) and papal legates (CIC cans. 362-367). Their service is oriented for the good of all the Churches and at the same time they carry out specific tasks within their canonical limits, in the name of and by the authority of the Roman Pontiff (CIC can. 334; CCEO can. 46 §1).

Particular among these institutions who aid the Roman Pontiff on the universal level is the Congregation for Oriental Churches, which has functioned as the part of the Roman Curia with primary responsibility for the pastoral care of Oriental migrants including Syro-Malabar migrants, together with other matters pertaining to Orientals.⁷⁴

4.2. Patriarchs and Major Archbishops in the Oriental Churches

The office of the Patriarch and Major Archbishop in the new Oriental Code differs from that of Patriarch or Primate in the Latin Code, because in the Latin Code they are purely titular without any power of governance (CIC can. 438). But, in the Oriental Code the Patriarch and Major Archbishop hold an office of great significance and are endowed with wide-ranging powers.⁷⁵ The Decree on the Catholic Eastern Churches says, "Following the most ancient tradition of the Church, special honour is to be given to the patriarchs of the Eastern Churches, since each is set over his patriarchate as father and head" (OE n.9). Then it continues, "What is laid down concerning patriarchs applies also, in

⁷⁴ Cfr. *Pastor Bonus*, Art. nn. 56-61; Chapter III, pp. 156-159.

⁷⁵ The six Oriental Catholic Patriarchate are: Alexandria of the Copts, Antioch of the Maronites, of the Melkites and of the Syrians, Babylonia of the Chaldeans and Cilicia of the Armenians.

accordance with Canon Law, to major archbishops who rule the whole of some individual church or rite.” (OE n.10; CCEO can. 152).⁷⁶ Therefore, the expression “father and head” entered into the Decree from the *motu proprio Cleri Sanctitati*,⁷⁷ and is now found in can. 55 of the CCEO.⁷⁸ As a head of an *Ecclesia sui iuris*, the patriarch and major archbishop have power over all Bishops, Metropolitans and other Christian faithful. An *Ecclesia sui iuris* according to canon 27 of the new Oriental Code is a group of faithful bound together by a hierarchy according to the norm of law, expressly or tacitly acknowledged as *sui iuris* by the Supreme Authority of the Church.

Canonical legislation in effect until the Council generally showed little favour to any extension of the patriarch’s authority outside the patriarchal territory. Propaganda, in a reply given to the Archbishop of Paris, dated 12 May, 1890, clearly stated: “The principle is that the Oriental rite patriarchs cannot exercise their proper jurisdiction outside their patriarchates.”⁷⁹ Later, one of the Instructions of the Propaganda, on 12 April, 1894, acknowledged that outside their patriarchal territory eastern patriarchs have authority over their faithful in all matters pertaining to the rite. On the basis of this instruction Cardinal Coussa asserts that:

The patriarch must see to it that the faithful (living outside the patriarchal territory) observe their rite faithfully; he must communicate to them all that is related to the discipline of the rite and promote their spiritual welfare in the best possible way... The patriarchs are bound to communicate the rules and

⁷⁶ CCEO can. 152. What is stated in common law concerning patriarchal Churches or patriarchs is understood to be applicable to major archiepiscopal Churches or major archbishops, unless the common law expressly provides otherwise or it is evident from the nature of the matter.

⁷⁷ CS c.216 §1 “Secundum antiquissimum Ecclesiae morem, singulari honore prosequendi sunt Orientis Patriarchae, quippe qui amplissima potestate, a Romano Pontifice data seu agnita, suo cuique patriarchatui seu ritui tamquam pater et caput praesunt.”

⁷⁸ CCEO c.55. According to the most ancient tradition of the Church, already recognized by the first ecumenical councils, the patriarchal institution has existed in the Church; for this reason a special honor is to be accorded to the patriarchs of the Eastern Churches, each of whom presides over his patriarchal Church as father and head.

⁷⁹ Cfr. A. COUSSA, *Epitome Praelectionum de Iure Ecclesiastico Orientali*, vol. 1, Roma, 1940, p. 229.

decisions concerning the rite to priests engaged in these areas in the service of souls. As for the way in which the patriarchs can effectively exercise their vigilance over the rite in such areas, it is nowhere determined⁸⁰

Practically speaking the *motu proprio Cleri Sanctitati* did not represent a step forward on this point. But it opened new perspectives. Canon 240 §2, states: "The authority of the patriarch can be exercised validly only within the patriarchate, unless the very nature of things or the law determine otherwise. With this background and its restriction, the oriental bishops raised this question constantly, and later it is discussed by the Commission for the revision of the Oriental Code.⁸¹ In 1977, based on the principles of the Second Vatican Council, the problem of the pastoral care of the faithful living outside territory was once more presented in the IV General Assembly of the Synod of Bishops requesting a favourable solution.⁸² Later an immediate solution was again demanded during the last plenary meeting of the Commission for the Revision of Oriental Canon Law.⁸³ However, the jurisdiction of the patriarchs and major archbishops over the faithful, who are living outside their territory is limited. This territorial restriction in the present situation, like India for the Syro-Malabar Church, may affect many Eastern Catholic Churches since many of their faithful are living outside their traditional territory. In this context, even Vatican II has not favoured and not extended this jurisdiction beyond their normal jurisdiction.

The new Oriental Code provides five canons regarding the territory of the patriarchal Church and the power of the Patriarch and Synods outside of this territory (cans. 146-150). Among these canons, canon 146 §1 speaks about the territory of the patriarchal Church over which the Patriarch presides and legitimately acquires the right to establish provinces, eparchies as well as exarchies. But, if there are questions and doubts concerning the territorial boundaries or its modifications, the Synod of bishops of the patriarchal Church is to investigate and study the

⁸⁰ A. COUSSA, *Epitome Praelectionum de Iure Ecclesiastico Orientali*, op. cit., pp. 229-230.

⁸¹ Cfr. NUNTIA 6 (1978) 3-33.

⁸² GIOVANNI CAPRILE, *Il Sinodo Dei Vescovi 1977*, Roma, 1978, pp. 359-362.

⁸³ NUNTIA 28 (1989) 41-43; 84; 29 (1989) 26-27.

matter, having heard from the superior administrative authority of each *ecclesia sui iuris*, and propose a solution to the Roman Pontiff. However, the final decision is to be made by the Roman Pontiff (can. 146 §2). Within the territorial boundaries of the patriarchal Church, the Patriarch and the Synod exercise their authority over all faithful, not only over all the faithful of their own church, but also on others who do not have proper hierarchs of their own *ecclesiae sui iuris* according to the provision of cans. 147 and 916 §5.

With regard to the Christian faithful living outside the territory of the patriarchal Church, the Patriarch has the right to seek appropriate information concerning these faithful through a visitor with the consent of the Holy See (can. 148 §1). As a consequence, the visitor, before he begins his functions, is to go to the eparchial bishop of those faithful and present his letter of appointment (can. 148 §2). After finishing his visit he is to submit his report to the Patriarch who will study the report together with his Synod of bishops and make their proposal to the Holy See (can. 148 §3). On the basis of this proposal the Roman Pontiff will issue a *ius speciale ad tempus* which is indicated in the Code with a clause "either by common law or by particular law approved by the Roman Pontiff" (can. 78 §2) as said by the Roman Pontiff to the last Plenary Assembly of the Members of the Commission on 10 November 1988⁸⁴ and, later, presenting the *Codex Canonum Ecclesiarum*

⁸⁴ In a letter dated 10 November 1988, the decision of the Pope was communicated to the Plenary Assembly of the Commission in which it reads:

Relativamente alla "Mozione" del 5 c.m., sottoscritta dalla "Plenaria di codesta Commissione" riunita in questi giorni, compio il venerato incarico di comunicarLe che il Santo Padre autorizza l'Assemblea a discutere sulla istanza fatta, ma tenendo fermo quanto hanno deciso i Concili ecumenici, che hanno previsto la giurisdizione patriarcale solo nel territorio del Patriarcato e in particolare quanto ha stabilito in Concilio Vaticano II, che non ha accolto la richiesta di estendere tale giurisdizione fuori dei confini del Patriarcato.

E' necessario che L'Assemblea presenti al Santo Padre un progetto di Codice in tutto conforme sia alle tradizioni orientali sia alle decisioni Conciliari.

Tuttavia per le Chiese che si trovano in situazioni speciali per quanto riguarda i loro fedeli abitanti fuori del territorio delle medesime, il Santo Padre sarà lieto di considerare, a Codice promulgato, le proposte elaborate dai Sinodi con chiaro riferimento alle norme del Codice che si ritenesse opportuno specificare con uno "ius speciale" e "ad tempus". Cfr. Letter of Msgr. E. Cassidy, on 10 November 1988, *Nuntia* 29 (1989) 27.

Orientalium, to the Synodal Fathers, on 27 October 1990.⁸⁵ Now the CCEO is in force, therefore, it is left to the Patriarchal and Major Archiepiscopal Churches to determine what specific faculties are needed to serve the needs of the faithful residing outside the territories of these Churches.

Finally the canons 149 and 150 speak about the election of bishops and the rights and obligations of bishops outside the territorial boundaries of the patriarchal Church. As stated in the canon 110 §1, the synod of bishops of both patriarchal and major archiepiscopal Churches are exclusively competent to make laws for these Churches, but, canon 150 §2 puts a restriction on the application of the synodal laws of these Churches. It says that only liturgical laws have the force of law outside the territories of these Churches, and disciplinary laws have force only inside the territories. However, §3 of this canon permits that eparchial bishops constituted outside the territories, who desire to do so, can attribute the force of law to disciplinary laws and other synodal decisions in their own eparchies.

4.3. On the National Level

4.3.1. The Episcopal Conference of the Latin Church in India

According to the new Code of Canon Law the Episcopal Conference is “a permanent institution, the assembly of the bishops of a country or of a certain territory, exercising together certain pastoral offices for Christ’s faithful in that territory. By forms and means of apostolate suited to the circumstances of time and place, it is to promote, in accordance with the law, that greater good which the Church offers to all people” (can. 447). The term episcopal conference appears in the Code 144 times,

⁸⁵ “In any case, I repeat what I said at the last Plenary Assembly of the members of the Commission which prepared the Code. I will be happy to consider in the promulgated Code proposals elaborated in the synods, well-detailed and with clear references to norms in the Code, for which it may be thought to be opportune to draw up a “*ius speciale*” “*ad tempus*”: the Code opens up this route in a relative canon with a clause referring to the “*ius a Romano Pontifice approbatum*”.” *L’Osservatore Romano*, 5 November 1990 (Weekly edition in English), p.5.

which shows the importance of this institution in the day to day life of each particular Church in the Latin Church.

Episcopal Conferences are the modern historical deliberative assemblies of the bishops of individual countries. Canonically, episcopal conferences are quite new, stemming from the Second Vatican Council. However, when we analyze the history of various episcopal conferences, we can understand that there were episcopal conferences in various countries before Vatican II, even though they did not function in the modern sense. For example, between 1561 and 1788 the archbishops of France held regular conferences, which were called "Synodi;" similarly bishops of Germany, Italy, Belgium, Austria, USA, etc., held, more or less regularly, their meetings for various purposes.⁸⁶ Various decrees of Vatican II refer directly to the role and competence of the episcopal conferences in their respective territories. The first Decree of the Council, the Constitution on the Sacred Liturgy, envisaged various kinds of competent territorial bodies of bishops for the reformation and regulation of the liturgy (SC nn. 21, 22). Later, the Decree on Ecumenism developed this concept further (UR n. 8). It received direct attention in the Decree on Bishops (CD nn. 37-38), and further legal specifics were added by Paul VI in the *motu proprio Ecclesiae sanctae* (ES n.I, 41). The revised Code of Canon Law gives the Episcopal Conference juridical status. The document contains thirteen canons (CIC cans.447-459).⁸⁷ Additionally *Christus Dominus* n.38 and *Ecclesiae sanctae* I, 41 envisage other types of episcopal conferences, for example, episcopal conferences of many nations or international episcopal conferences. Episcopal conferences became a hierarchical structure in Vatican II and norms regarding them are stipulated in the same Decree on Bishops (CD nn. 37, 38). The increased power of local bishops, envisaged in Council documents, serves as the basis for the development of episcopal conferences as a hierarchical structure.⁸⁸ However, the episcopal conference has no theological basis, as Cardinal Ratzinger observed:

⁸⁶ PROVOST, "Groupings of Particular Churches", art. cit., p. 363.

⁸⁷ PROVOST, "Groupings of Particular Churches" art. cit., p. 364.

⁸⁸ MADATHIKANDATHIL, The Catholic Bishops' Conference of India, op. cit., p. 77.

We must not forget that the episcopal conferences have no theological basis, they do not belong to the structure of the Church, as willed by Christ, that cannot be eliminated; they have only a practical, concrete function.⁸⁹

In the episcopal conferences, the bishops, diocesan, coadjutor, auxiliary, etc., (CIC can. 450) gather together and jointly exercise certain pastoral functions on behalf of the Christian faithful of the nation and also enhance the Church's service to mankind (CIC can. 447). The conferences are permanent institutions, endowed with officers, a permanent council, commissions and staff (CIC cans. 451, 453, 457, 458). The juridical rule-making authority of conferences is quite limited, for they can issue general decrees which are binding on the churches of the nation only in specifically designated matters, by a vote of two-thirds of the members, and those decisions are subject to review by the Holy See (CIC can. 455). But the most important activities of the episcopal conferences are the exercise of their teaching office (CD n. 38; CIC can. 753) and efforts of planning, support, encouragement and coordination of the apostolate.⁹⁰

In this perspective we see the various structures of the episcopal conferences of the Indian Churches in the field of the phenomenon of migration. As we have seen in the second chapter, there are four ecclesiastical structures: the Synod for the Syro-Malabar Church, the Syro-Malankara Church Council, the Episcopal Conference for the Latin Church and the Catholic Bishops' Conference of India.⁹¹ The majority of the Syro-Malabar migrants are now residing in the territories of Latin Dioceses. Therefore, the episcopal conference of Latin Church and the Syro-Malabar Church should take proper initiative to handle the problem of these migrants. In the present circumstance of India all the migrants, including Syro-Malabar catholic migrants, are facing a situation more difficult than ever. Therefore, the episcopal conference of Latin Church must be conscious of this particular situation and act timely to avoid every danger in the life of these migrants; otherwise it will be a great loss

⁸⁹ THE RATZINGER REPORT, Leominster, Herefords, 1985, p. 59.

⁹⁰ JAMES A. CORIDEN, *An Introduction to Canon Law*, New York, 1991, p. 82.

⁹¹ It will become the Assembly of Hierarchs according to the can. 322 of the new Oriental Code.

for the Universal Church and particularly for the Syro-Malabar Church. Understanding the present reality of the people on the move, the Second Vatican Council in the Decree of *Christus Dominus* says:

Conferences of Bishops especially national conferences, should give special attention to the more urgent questions affecting such classes, such as immigrants, exiles, refugees, sailors, and people in aviation. By mutual agreement and united effort, they should look after and give high priority to the spiritual care of these people. This they can do by the use of suitable methods and organizations, following mainly the norms laid down by the Apostolic See. These norms should be suitably adapted to the time and place and circumstances of the people concerned (CD n.18).

Therefore, on the basis of this article the Instruction *De Pastoralis Migratorum Cura* has already given some specific norms in which every episcopal conference in the Universal Church ought to act in their territories. To make known these important existing norms, we will present them in brief form in order to show how these norms affect the government of the Episcopal Conference of Latin Church of India in providing the pastoral care of migrants, including the Syro-Malabar migrants.⁹² They are:

- i. The Episcopal Conference assigns a priest delegated for this purpose or a special Commission established for this purpose to study and direct the spiritual care of these people (DSS n.2027).
- ii. To undertake projects for the increasing needs of the care of migrants, and to create appropriate offices for the service of all or many dioceses of a determined region or nation (DSS n.2028).

⁹² Here we bring to our mind the norm given by the Instruction *De Pastoralis Migratorum Cura* regarding the migrants of Oriental Rites. It reads as follows:

Furthermore, It is the function of the Sacred congregation for Bishops to concern itself with the same things for the benefit of immigrants of the Oriental rites--again in consultation with the sacred Congregation for the Oriental Churches--whenever faithful of the individual Oriental rites move to places which are not subject to the latter Sacred Congregation and where there is no priest of their own rite.

Now this competency of the Sacred Congregation of Bishops has given to the Pontifical Council for the Pastoral Care of Migrants and Itinerant People according to the Apostolic Constitution *Pastor Bonus*.

- iii. Likewise to found and promote projects for providing a brotherly welcome and due pastoral care for those who immigrate from mission lands for the sake of study and work (DSS n.2029).
- iv. To constitute an Episcopal Commission for Migration in their Conference, which will have a Secretary who will be the National Director (DSS n.2031).
- v. To designate an Episcopal Promotor where the number of migrating people is smaller (DSS n.2033).
- vi. To implement all dispositions of the Apostolic See and the Decrees of the Council (DSS n.2034).
- vii. To undertake studies on the principal questions of migrations (DSS n.2034).
- viii. To choose priests and train them for this particular ministry (DSS n.2035).
- ix. To set up an educational institution for priests who are to be assigned to migrants or to choose some institutions for the formation of candidates for the priesthood for certain language groups (DSS n.2036).
- x. To encourage both men and women religious and lay people to participate in these projects (DSS n.2037).
- xi. To promote periodic conferences on a national level in order to strive for efficient coordination of the pastoral care of migrants (DSS n.2038).
- xii. To send annual statistical reports to the Holy See (DSS n.2040).
- xiii. To establish and observe Immigrant Day (DSS nn.2042-2046)

In this way the Episcopal Conference of the Latin Church of India has to organize its work and provide all the facilities for the pastoral care of migrants. When the Conference fulfills this great and important task in favour of migrants, it will be a great contribution for the Universal Church and especially for the Syro-Malabar Church.

4.3.2. The Synod of Bishops' of the Syro-Malabar Church⁹³

In the Eastern Catholic Churches, synodal governance is the ordinary form of governance among the patriarchal and major archiepiscopal

⁹³ By the force of canon 152, what is stated in the CCEO on the Synod of bishops of the

churches. Together with patriarchs and major archbishops, the Synod of bishops constitutes the highest authority in these churches:

The patriarchs with their synods are the highest authority for all matters concerning the patriarchate, including the right of setting up new eparchies and appointing new bishops of their own rite within the confines of their own patriarchal territory, without prejudice to the inalienable right of the Roman Pontiff of intervening in individual cases (OE n.9).

However, the new Code of Canons of the Eastern Churches does not state explicitly whether the Patriarch or the Synod of bishops is the superior instance of the authority in the patriarchal church except in cans. 110 §2 and 1062 §1.⁹⁴ As regards the Synod of bishops, the CCEO deals in twelve canons under the heading of “The Patriarchal Churches” in chapter III of the title 1V (cans. 102-113). Following the same path of the Council decree on the *Orientalium Ecclesiarum*, the can. 103 of the CCEO says that the Patriarch is to convoke the Synod of bishops of the patriarchal church and to preside over it. For the Syro-Malabar Church it is the duty of the Major Archbishop to convoke the Synod and preside over it according to the norm of canon 152 and thus, it becomes the superior authority of the Syro-Malabar Church.

A Synod of bishops of a patriarchal or major archiepiscopal church is comprised only of all ordained bishops of the respective church, whether they are constituted inside or outside the patriarchal territory. While others can be invited to attend in the capacity of experts or guests, only the bishops can enjoy a deliberative vote (can. 102). Bishops constituted outside the boundaries of the patriarchal Church have the same synodal rights and obligations that the other bishops of the same church have (cans. 102 §2 and 150 §1). With the exception of elections (can. 149), the deliberative vote of eparchial bishops constituted outside the territory of the patriarchal or major Archiepiscopal Churches and titular bishops can be restricted in their voting authority by particular law

patriarchal Church is understood to be applicable to major archiepiscopal Churches, unless the common law expressly provides otherwise or it is evident from the nature of the matter.

⁹⁴ CCEO can. 1062 §1. The synod of bishops of the patriarchal Church, with due regard for the competence of the Apostolic See, constitutes the highest tribunal within the territorial boundaries of the patriarchal Church.

(can 102 §2). Canon 106 lays down the occasions and frequency of the synod of bishops. It shall be convened:

- i. Whenever matters are to be decided which belong to the exclusive competence of the synod of bishops of the patriarchal Church or which, in order to be done, require the consent of the synod;
- ii. With the consent of the permanent synod, when the patriarch judges it necessary;
- iii. When at least one-third of the members request it for a given matter, with due regard always for the rights of patriarchs, bishops and other persons, established by Common Law;
- iv. The synod of bishops of the patriarchal Church must be convoked at the established times, even annually, if particular law determines it.

The Patriarch is to transfer, postpone, suspend and dissolve the synod of bishops, with the consent of the Synod of bishops (can. 108 §1). As a main canon in this section, can. 110 delineates the competence of the Synod of bishops. According to can. 110 §1, it is the duty of the Synod of bishops of the patriarchal Church to make laws for the entire patriarchal Church. The laws promulgated have their force only according to the norms of can. 150 §§2 and 3.⁹⁵ In a similar way §2 of the same canon states that the Synod of bishops constitutes the supreme tribunal in the patriarchal Church. It belongs to the Synod of bishops to elect the patriarch and major archbishop (can. 63), bishops, and candidate for offices, within the territorial boundaries of the patriarchate (cans. 87, 110 §3, 181 §1) and the election of candidates for vacant eparchial sees outside the patriarchal territory according to the norm of cans. 149 and 181 §2. But the Synod of bishops is not competent for administrative acts, unless for certain acts the patriarch establishes otherwise or certain acts are reserved by common law to the same synod, and with due regard for the canons which require the consent of the Synod of bishops of the patriarchal Church (can. 110 §4).

The Synod of bishops is competent to accept the resignation of the patriarch, having consulted the Roman Pontiff, unless the patriarch goes

⁹⁵ Cfr. p. 244.

directly to the Roman Pontiff (can.126 §2). Again, it is the Synod of bishops which establishes the timing of the metropolitan synod of the metropolitan province within the territorial boundaries of the patriarchal Church (can.133.2). The Synod of bishops defines precisely the rights and obligations of metropolitan and of the metropolitan synod of the patriarchal Church (can.137). It is also the right of the Synod of bishops to publish a particular programme for the training of clerics, in which common law is to be explained precisely for seminaries within the boundaries of the territory of their own Churches (can. 330 §). For various other administrative acts, especially in dealing with juridical persons and institutes, the Patriarch or Major Archbishop needs the consent of the Synod of bishops. They are: the erection of a common seminary (can.334 §1); the erection of Catholic and ecclesiastical universities within the territorial limits of the patriarchate, after previous consultation with the Holy See (cans. 642 §2, 649); suppression of a confederation of monasteries within the territorial boundaries of the patriarchal Church (can.440 §2); to suppress any juridical person except those that have been set up or approved by the Apostolic See (can.928.1).

With regard to the faithful living outside the territory of the patriarchal Church, it is the duty of the Synod of bishops together with the Patriarch to study the report of the visitor and make appropriate proposals to the Holy See (can. 148 §3). Briefly, in the light of all these canons we can understand that the Synod of bishops of patriarchal or major archiepiscopal Churches has a series of powers and obligations towards their Church and their faithful, and even those who are living outside the territories of their own Churches. Therefore, it is the duty of the Synod of bishops' of the Syro-Malabar Church, like the conferences of the Latin Church and other Synod of bishops in the eastern Churches, to provide every kind of pastoral assistance in favour of the Syro-Malabar migrants on the basis of all the teachings of the Universal Church.⁹⁶

⁹⁶ OE nn. 4,6; CD nn. 18,23; Instruction *De Pastoralis Migratorum Cura*, chapter III.

4.4. On the Diocesan Level

4.4.1. The Diocesan Bishops

The Dogmatic Constitution *Lumen Gentium* nn. 20-27 expound the theology of the episcopate and the conciliar Decree *Christus Dominus* lays down the general norms related to the pastoral ministry of bishops. The two documents, thus, outline the rights and obligations of a bishop, valid for the Oriental as well as the Latin Churches. For this reason, it is evident that both the *Codex Iuris Canonici* of 1983 and the *Codex Canonum Ecclesiarum Orientalium* of 1990 move together hand in hand in the same direction. The related canons, although they employ a different terminology, are the same in content.⁹⁷

According to *Lumen Gentium* n. 21, bishops receive the functions (*munera*) by which they participate in Christ's mission as teachers, sanctifiers, and pastoral rulers, with episcopal consecration, which is a sacramental act in which Christ acts directly. This is true for all bishops and not simply for diocesan bishops. By their very nature, however, these *munera* are to be exercised only in hierarchical communion with other members of the college of bishops, including its head⁹⁸ Bishops have the right and the obligation to be present at an Ecumenical Council with deliberative vote.⁹⁹ Therefore, the bishops have a twofold representative function: they represent the Universal Church, that is, a communion of many *Ecclesiae sui iuris*, and also represent their own eparchy or diocese in which the Universal Church is actualized.

Every bishop is fully autonomous, *ad normam iuris*, in his own territory, as head of his eparchy or diocese, in which he is "vicar of Christ" (LG n. 27),¹⁰⁰ and he rules in the name of Christ. In other words,

⁹⁷ For example 'eparchies' and 'eparchial bishops' stand for 'dioceses' and 'diocesan bishops'; 'Hierarch' has its equivalent in 'Ordinary', while 'Protosyncellus' and 'Syncellus' are called 'Vicar General', and Episcopal Vicar (CCEO/CIC).

⁹⁸ JAMES H. PROVOST, *The Hierarchical Constitution of the Church*, art. cit., p. 262.

⁹⁹ "It is the right and obligation of all the bishops who are members of the college of bishops to participate in an ecumenical council with a deliberative vote." Cfr. CCEO can. 52 §1 & CIC can. 339 §1.

¹⁰⁰ MARCO BROGI, "Characteristics of the Eparchial Structure in the New Law for the Oriental Churches", in Clarence Gallagher ed., *The Code of Canons of the Oriental Churches*, Rome, 1991, p. 61.

power in the Church is that of Christ, which means that all power in the Church is truly vicarious, even that which the pope and bishops exercise properly as Ordinaries (i.e., in virtue of their offices).¹⁰¹ This power of the bishop, which is operative in legislative, judicial and administrative matters,¹⁰² is not confined to the sphere of government; it is operative throughout the whole range of the Christ's work, which includes the threefold office of teaching, sanctifying and governing. Therefore, as ambassadors of Christ, the bishops have a great obligation towards the entire Church.

Furthermore, it is the duty of the bishop to welcome all the faithful in his eparchy and to give a proper place for them in order to live according to their spiritual and cultural traditions. Besides, as an ambassador of Christ he must be the sign and promotor of love, and it is up to the bishop to ensure that the particular Church expresses its Catholicity by responding the needs of different groups of people (LG n.23). In this respect we see the importance of the Council teaching and its canonical implications in the new Codes of Canon Law, which state:

In the exercise of his pastoral function, the eparchial bishop is to show that he is concerned for all the Christian faithful who are committed to his care, regardless of age, condition, nation or *Ecclesia sui iuris*, both those who live within the territory of his eparchy and those who are staying in it temporarily; he is to extend his apostolic spirit also to those who cannot sufficiently make use of ordinarily pastoral care due to their condition in life as well as to those who no longer practice their religion (CD n.18; CIC can.383 §1 & CCEO can.192 §1).

Therefore, the pastoral responsibility of the Bishops is very great in their own dioceses, however, they cannot limit their work to their own diocesan territories. Because they are ordained for the Universal Church, they must extend their paternal solicitude for every kind of people, migrants, tourists, refugees, seasonal workers, etc. In this regard we see the importance of can. 771 §1 of the 1983 Code of Canon Law, which exhorts to the Bishops to give special solicitude for those who are not

¹⁰¹ PROVOST, "The Hierarchical Constitution of the Church," art. cit., p. 259.

¹⁰² CCEO can. 191 §1; CIC can. 391 §1.

reached by ordinary pastoral care due to their condition of life. The canon reads as follows:

Pastors of souls, especially bishops and pastors, are to be solicitous that the word of God is preached also to those members of the faithful who do not enjoy sufficiently or who lack completely common and ordinary pastoral care due to their condition of life (CIC can. 771 §1).

So, a pastor of souls, the diocesan bishop has to provide every means to reach the word of God to all people according to their "condition of life". In this way we see the great responsibility of the diocesan bishops towards those who are in their territories permanently or temporarily. The main right and obligation of the eparchial bishops with regard to our subject are as follows:

- i. The eparchial bishop, to whom the care of Christian faithful of another *Ecclesiae sui iuris* is committed is bound by the serious obligation of providing all things in order that these Christian faithful retain the rite of their own Church, cultivate and observe it as much as they can; he should foster relations with the higher authority of that Church (CCEO can. 193 §1).
- ii. The eparchial bishop is to see to it that in his own cathedral at least part of the divine praises are celebrated, even daily, according to the lawful customs of his own *Ecclesia sui iuris* (CCEO can. 199 §2).
- iii. Since he is obliged to safeguard the unity of the entire Church, the eparchial bishop is to promote the common discipline of the Church as well as to urge the observance of all ecclesiastical laws and legitimate customs (CCEO can. 201 §1 & CIC can. 392 §1).
- iv. The eparchial bishop is to provide for the spiritual needs of those Christian faithful, if it is possible, through presbyters or pastors of the same *Ecclesia sui iuris* as the Christian faithful, or even through a syncellus constituted for the care of these Christian faithful (CCEO can. 193 §2 & CIC can. 383 §2).
- v. Eparchial bishops, who appoint such presbyters, pastors or syncelli for the care of Christian faithful of patriarchal Churches, are to formulate plans of action with the patriarchs who are concerned in the matter and, if they are in agreement, act by their own authority and notify the Apostolic See as soon as possible; if the patriarchs, for any reason whatever, disagree, the matter is to be referred to the Apostolic See (CCEO can. 193 §3).
- vi. An eparchial bishop of any *Ecclesia sui iuris*, even of the Latin Church, is to inform the Apostolic See on the occasion of the quinquennial report, about

the status and needs of the Christian faithful who, even if they are enrolled in another *Ecclesia sui iuris*, are committed to his care (CCEO can. 207).

vii. It is the right of the eparchial bishop, having consulted the presbyteral council, to erect personal parishes based on nationality, language, enrollment of the Christian faithful in another *Ecclesia sui iuris* or even upon some other definite determining factor (CCEO can. 280 §1 & CIC can. 518).

viii. In places where no exarchy has been constituted for the Christian faithful of a certain *Ecclesia sui iuris*, the hierarch of the place is to be considered the proper hierarch of these faithful; if however, there are several hierarchs, that one is to be considered their proper hierarch who has been appointed as such by the Apostolic See or, if it is a question of Christian faithful who belong to a patriarchal Church, by the patriarch with the assent of the Apostolic See (CCEO can. 916 §5).

ix. If there is no pastor for the Christian faithful of a certain *Ecclesia sui iuris*, the eparchial bishop of these people can appoint the pastor of another *Ecclesia sui iuris* to look after them as their proper pastor, but with the consent of the eparchial bishop of the pastor who is to be appointed (CCEO can. 916 §4).

x. In a special way the eparchial bishop is to see that all Christian faithful committed to his care foster unity among Christians according to principles approved by the Church (CCEO can. 192 §2).

xi. The eparchial bishop is the moderator, promoter and guardian of the entire liturgical life in the eparchy committed to him. He has a grave obligation to see that the liturgical life is fostered in his eparchy as much as possible and ordered according to the prescriptions and approved customs of his own *Ecclesia sui iuris* (CCEO can. 199 §1 and CIC can. 835 §1).

xii. Speaking to the matter of representation on the eparchial pastoral council, both Codes give ambient possibilities for eparchial bishops to choose members from different categories of the Christian faithful, even the members of another *Ecclesia sui iuris* (CIC can. 512 §1 & §2 and CCEO can. 273 §1, §2 & §3).

xiii. The eparchial bishops of several *Ecclesiae sui iuris* exercising authority in the same territory are to see that, gathered for consultation in periodic meetings, they foster unity of action and through combined efforts assist in common works for the effective promotion of the good of religion and the effective protection of ecclesiastical discipline (CCEO can. 202).

xiv. The bishop is to foster various forms of the apostolate in his diocese and is to ensure that throughout the entire diocese, or in its particular districts, all works of the apostolate are coordinated under his direction, with due regard for the character of each apostolate (CIC can. 394 §1 and CCEO can. 203 §1).

4.4.2. The Episcopal Vicar

This juridical institution is not new in the history of Canon Law, however, the office of the episcopal vicar has been opportunely re-introduced and re-established in the new Codes¹⁰³ on the basis of the Second Vatican Council. When we go back to the early period of the history of the Church, this title has first been seen in the book *De Schismate Donastitarum*, written about 366 by St. Optatus.¹⁰⁴ Again, in the Decretals of Gregory IX, we find this juridical institution, such as the figures of archdeacons, deans for rural areas, and vicars for some zones of the diocese, who exercised authentic jurisdictional power in their determined sectors.¹⁰⁵ The Fourth Lateran Council also, having in mind the ecclesiastical situation of Cyprus, demanded that the Latin rite bishops appoint a vicar or auxiliary bishop if the number of Oriental faithful of the dioceses warranted it, and later, the episcopal vicar became very common in different Oriental Churches.¹⁰⁶ In recent past experience, the 1917 CIC requested the bishops of the Latin rite to appoint more than one vicar general in their diocese because of '*rituum diversitas*'.¹⁰⁷ Through

¹⁰³ CIC cans. 476, 477, 478, 479 §1 & §2, 480, 481; CCEO cans. 246, 247, 248, 249, 250, 251.

¹⁰⁴ PL XI. Col. 916.

¹⁰⁵ Decretales LX, lib.I, tit. XXIII, XXIV, XXVIII.

¹⁰⁶ Can. 9 of the IV Lateran Council; Syn. Armen., a. 1911, 272, 274, tit. II, cap. VIII, De Vicario Generali deque Vicesgerentibus; Syn. Alexandrin. Coptorum, a. 1898, sect. III, cap. IV, art. I, De Vicario Generali; Syn. Libanen. Maronitarum, a. 1736, pars III, cap. III, 3; Syn. prov. Alba-Iulien. et Fagarasien. Rumenorum, a. 1872, tit. II, cap. VI, De vicariis generalibus Episcoporum et de Vicariis Capitularibus; Syn. Zamosten. Ruthenorum, a. 1720, tit. VII; Syn. Sciarfen. Syrorum, a. 1888, cap. V, art. XIII, §9, n.3; Syn. Libanen. Maronitarum, a. 1736, pars III, cap. II, 7; Syn. Sciarfen. Syrorum, a. 1888, cap. IX, art. I, 17; Leo X, litt. ap. *Accepimus nuper*, 18 maii 1521; Paulus III, litt. ap. *Dudum*, 23 dec. 1534.

¹⁰⁷ 1917 CIC can. 366 §3. "Unus tantum constituatur, nisi vel rituum diversitas vel amplitudo dioecesis aliud exigat".

the *motu proprio Cleri Sanctitati* in 1957, Pope Pius XII sanctioned for the Oriental Churches the use in their eparchies of the office of 'Syncellus', which is based on the concept of restricted ordinary vicarious power. The relevant canon of *Cleri Sanctitati* reads as follows:

Whenever the proper government of the eparchy demands it, a syncellus is to be appointed by the bishop to help him in the entire territory with ordinary jurisdiction (CS can. 432 §1).

If in a diocese of the Latin Rite there are communities of faithful of the Oriental Rite, a syncellus shall be appointed to take care of them. If possible, he should be of an Eastern Rite, otherwise, a Latin Rite priest may be appointed, who is qualified and well versed in Oriental matters (CS can. 432 §4.1).¹⁰⁸

Based upon all these past experiences of the Church government, the Council Fathers decided to introduce the office of episcopal vicar or syncellus¹⁰⁹ for the believers of different rites, for the faithful of a different language group, or for the good government of the diocese; however, the office depends completely upon the discretionary power of the diocesan bishop. There is a greater flexibility in this new office, because the diocesan bishop may determine the duties of an episcopal vicar or syncellus according to his own ideas. In many cases, the bishop is free to reserve certain matters to himself or to the vicar general, and he may also confer a special mandate on the episcopal vicar or syncellus in matters for which Canon Laws provides.¹¹⁰ The difference between a vicar general and an episcopal vicar is not in the nature of the power they possess, but in the ambit within which it is extended. Both enjoy an 'ordinary power' annexed to their office, *vicaria* which they exercise in the name of the diocesan bishop for whom they stand.¹¹¹

¹⁰⁸ "Quoties rectum eparchiae regimen id exigat, constituendus est ab Episcopo Syncellus, qui ipsum potestate ordinaria in toto territorio adiuvet" (CS can. 432 §1).

"Si in aliqua dioecesi ritus latini adsint communitates fidelium ritus orientalis, constituatur Syncellus qui de iis curam suscipiat; qui, si fieri potest, sit et ipse ritus orientalis, secus, sacerdos latini ritus, idoneus ac rerum orientalium bene doctus, assumatur" (CS can. 432 §4,1°).

¹⁰⁹ CD nn. 23, 26, 27.

¹¹⁰ CIC cans. 476, 479 §1; CCEO cans. 246, 248 §1; CIC (1917) can. 368 §1, Ecclesiae Sanctae I, 14 §1 & §2; Directorium de Pastoralis Ministerio Episcoporum n. 202.

¹¹¹ ANTONINO M., ABATE, "La Sacra Gerarchia alla luce del nuovo Codice", in *La Nuova Legislazione Canonica*, Studia Urbaniana 19, Brescia, 1983, p. 229.

These provision given by the Council are based on a fundamental right of the Christian faithful in the Church, who have the right to worship God according to the prescriptions of their own *Ecclesiae sui iuris* (CCEO cans. 16 & 17; CIC cans. 213 & 214). Therefore, the implementation of this fundamental right requires the eparchial bishops to provide everything for the spiritual benefit of the faithful as stated in can. 193 §1 and §2 of CCEO and can. 383 §2 of CIC. Other sources related to this appointment of an episcopal vicar or syncellus are the passages of various conciliar documents.¹¹²

4.4.3. On the Parish Level

4.4.3.1. The Parish Priest

In the Catholic Church, as well as in other Christian Churches, the parish priest is considered as the mainstay of ministry. Sacred ministers are in the Church by divine institution (CIC can. 207§1; CCEO can. 323 §2), that is, it is the will of Christ that ordained ministers, who are also called clerics (CIC can. 217 §1; CCEO can. 323 §1), are in the Church. The Council affirmed the divinely-given nature of sacred ministry. The people do not constitute ministers in the Church; Christ does (LG n. 32). The purpose of sacred ministry is service and unity (LG n. 18). The ordained act in the person of Christ as they teach, sanctify, and rule within the People of God (LG n. 32). Such action is not merely an extension of what all are called to do in virtue of baptism, but a qualitatively different sharing done on behalf of all in the Church.¹¹³ And, therefore, the mutual interaction of ministers and people is needed for the Church to accomplish its mission.

¹¹² They are:

- a. the equality of all *Ecclesiae sui iuris* (OE n. 3).
- b. the equal right and dignity of all lawfully recognized rites and the common policy of the Holy Mother Church to protect them in the future and to foster them in every way (SC n. 4).
- c. the right to religious freedom to all men (DG n.2; GS n. 26).

¹¹³ JAMES H. PROVOST, "The Christian Faithful", in J.A.CORIDEN, T.J.GREEN, D.E.HEINTSCHEL ed., *The Code of Canon Law: A Text and Commentary*, Bangalore, 1986, p. 132.

By the sacrament of Order, the priest is configured in the image of Christ the priest, for the up-building and development of His whole body, the Church, as a co-worker with the bishops.¹¹⁴ His sacramental connection with the bishop in Holy Orders is one expression of the communion of the parish community with the diocesan church.¹¹⁵ It enables him to share directly in the mission and authority of the bishop whom he represents in the local congregation.¹¹⁶ The relation of priest to bishop and of bishop to priest is determined by the fact that the priesthood subsisting in the bishop and in the priest is the one priesthood of Christ. Although the real participation in the episcopal ministry is conferred upon presbyters through the sacrament, the exercise of the ministry comes through canonical mission.¹¹⁷

One of the characteristic function of a priest is to act as a mediator between God and His people, that is, he becomes a brother among brothers and sisters with all those who have been re-born at the baptismal font (po n.9). This implies first that he communicates to the people the things of God, because as priest chosen from among men he is appointed to act on their behalf in relation to God in order to offer gifts and sacrifices for sins (po n.3). By sacred ordination and mission he is deputed in a special way to nourish the People of God by fulfilling in his own particular grade and in the person of Christ the offices of preaching, sanctifying and ruling¹¹⁸.

Following the line of the 1917 Code of Canon Law and Vatican II,¹¹⁹ can. 519 of the new Code of Canon Law gives a descriptive definition of a pastor:

¹¹⁴ po n.4, 12; CD n.30; LG n.28.

¹¹⁵ Cfr. JAMES A. CORIDEN. *An Introduction to Canon Law*, op. cit., p. 88.

¹¹⁶ Cfr. FRIEDRICH WULF, PAUL-J. CORDES, MICHAEL SCHMAUS *Commentary on the Decree on the Ministry and Life of Priests*, in Herbert Vorgrimler ed., *Commentary on the Documents of Vatican II*, vol. IV, New York, 1969, p. 235.

¹¹⁷ WULF, CORDES & SCHMAUS "Commentary on the Decree on the Ministry and Life of Priests," art. cit., p. 238.

¹¹⁸ po n.1; CIC can. 1008; CCEO cans. 743 & 323 §1.

¹¹⁹ CIC (1917) cans. 216 §1 & 415 §1; CD n.30.

The parish priest is the proper pastor of the parish entrusted to him. He exercises the pastoral care of the community entrusted to him under the authority of the diocesan Bishop, whose ministry of Christ he is called to share, so that for this community he may carry out the offices of teaching, sanctifying and ruling with the cooperation of other priests or deacons and with the assistance of lay members of Christ's faithful, in accordance with the law.¹²⁰

The focus in this definition is on the community, which alone gives meaning to the office of pastor. At the local level these ministries are fulfilled in the stably-established communities of Christ's faithful which we call parishes.¹²¹ Therefore, the pastor is charged to cooperate with other priests, deacons and lay persons in carrying out his ministry to the parish community.¹²² In the exercise of his ministry, the priest must be the model of the Good Shepherd. As a herald of the Gospel and shepherd of the Church, he must devote himself to the spiritual growth of the Body of Christ. Again, as herald of the Gospel, he has a special obligation to the poor and the lonely and to all who require his help in a special way (CIC can. 529 §1).

4.4.3.2. The Chaplain or Missionary for Migrants

One of the new elements introduced in the new Code of Canon Law is the figure of the chaplain. For the first and only time this office appears in the new Code of Canon Law. A chaplain is a priest to whom is entrusted in a stable manner, at least partially, the pastoral care of a community or a particular group of faithful (CIC can. 564). Here the Code proceeds in the same direction of the Council Decree *Christus Dominus* n. 18, and says that chaplains are to be appointed for those who are not able to make use of ordinary pastoral care of a pastor because of their particular condition of life.¹²³ Therefore, the office is pastoral in

¹²⁰ CCEO cans. 281 & 289.

¹²¹ CIC can. 515 §1 and CCEO can. 279.

¹²² AA n.10; SC n.42; Cfr. PAOLO URSO, "La struttura interna delle chiese particolari," in *Il Diritto nel mistero della Chiesa*, 2 ed., a cura a del gruppo italiano docenti di Diritto Canonico, PUL, Roma, 1990, p. 465.

¹²³ ADOLFO LONGHITANO, "Chiesa Particolare e Chiesa Universale", in *Il Diritto nel mistero della Chiesa*, 2 ed., a cura del gruppo italiano docenti di Diritto Canonico, PUL, Roma, 1990, p. 514; CIC can. 568.

nature, although chaplain is not a pastor; his office is more restricted in scope. His appointment comes from the local Ordinary or from someone who is competent by a special or particular law to appoint a chaplain or to confirm one who is elected (CIC can. 565). Chaplains are appointed for hospitals, prisons, military bases, sailing ships, large religious houses, migrants, refugees, nomad groups, etc. (CIC cans. 567-569). They are given the special faculties¹²⁴ which they need to fulfill their pastoral duties, such as, to preach the word of God, celebrate the liturgy, and hear the confessions of the people for whom they care (CIC cans. 566-567).

According to Prof. V. De Paolis, "the Code of Canon Law also provides for other offices for the care of the souls, although they do not carry a full care (cfr. CIC cans. 151, 757, 771 §1 & §2, 986 §1, 1003 §2 etc.). Offices for the care of souls are without doubt those of the assistant parish priest (CIC cans. 545 ff)." Accordingly, he concludes, "Although such offices are intended for the care of souls, they necessarily rely on the parish because the latter is the only place where the faithful finds all the necessary means for salvation."¹²⁵

Further, when we compare the new Code of Canon Law with the Instruction *De Pastoralis Migratorum Cura*, we note that the new Code of Canon Law uses the term "chaplain" only, while the Instruction uses "chaplain and missionary". Besides, the new Code of Canon Law describes the figure of chaplain in a very general way, but the Instruction gives a description in a more detailed manner, because it has dedicated an entire chapter to this juridical figure. Therefore, to understand this new juridical figure we ought to go through chapter five of the Instruction *De Pastoralis Migratorum Cura*. After presenting the passage of the Decree *Christus Dominus* n. 23 §3, the Instruction give us the definition of a Chaplain or Missionary for Migrants:

Priests who have received a legitimate mandate from ecclesiastical authority to carry out spiritual care of immigrant people in their own language are called Chaplains or Missionaries for Immigrants (DSS n.2074).

¹²⁴ New faculties for Chaplains issued by the Congregation of bishops show the importance of this office in case of migrants. Cfr. *On the Move* 34 (1982) 75-76.

¹²⁵ V. DE PAOLIS, "The communitarian dimension", art. cit., p. 50.

Therefore, first of all, chaplains are priests who have received a legitimate mandate from the ecclesiastical authority to give spiritual help for the migrants of the same language. The object of this mandate is very clear from the definition itself, i.e., the pastoral care of migrants. However, the Instruction exhorts the priests before undertaking this special job to obtain the permission from their own Ordinaries (DSS n.2075). Besides, the Instruction foresees training for an adequate period of time in order to fulfill the new ministry in its full swing (DSS n.2078). Leaving aside other requisites let us examine the various faculties given by the Instruction for the Chaplains or Missionaries:

- i. The Chaplain or Missionary for immigrants is always subject to the ordinary of the place (DSS n.2080); and he should consider him as his proper Ordinary (DSS n.2093).
- ii. The Chaplain or Missionary to whom a personal parish is entrusted, enjoys a pastor's power with all faculties and duties which belong to pastors. If he lacks this jurisdiction, he has the faculty of ministering the Sacrament of Confirmation to his subjects who are dying (DSS n. 2082).
- iii. The Chaplain or Missionary to whom is given a mission with the care of souls, enjoys proper power and, is equivalent to pastor (DSS n. 2083).
- iv. This power is personal; it is to be exercised in regard to immigrants of the same language and only within the boundaries of the mission (DSS n. 2084).
- v. The power is cumulative with that of the parish of the place on an equal basis (DSS n. 2085).
- vi. As long as he remains in the new ministry, the chaplain enjoys all the rights equal to the local clergy (DSS n. 2079).
- vii. As far as rights and duties are concerned, the Instruction provides everything which are attributed to pastors by common law to the Chaplain or Missionary for migrants. Some of these rights are: administering the Sacrament of Confirmation of their own language and power of assisting validly at the marriages of the faithful of the Chaplain's language within his territory (DSS nn. 2086-2087).
- viii. Apart from these faculties the Instruction exhorts the Ordinaries to grant the Chaplain or Missionaries appropriate faculties and powers (DSS n. 2090).

On the basis of these norms we can understand that the Instruction provides many faculties for the Chaplains or Missionaries for migrants.

At the same time, these norms are almost equal to the pastors of parishes (DSS n.2088).

4.4.4. The Religious and the Pastoral Care of Migrants

From the very beginning of the history of migrants, there has been the presence of religious in the pastoral care of migrants.¹²⁶ The best example for this we can find in the Apostolic Constitution *Exsul Familia*. Remembering all the events of the history of the pastoral care of migrants, especially those institutes which have the specific charism for the pastoral care of migrants, the Apostolic Constitution stated:

Lest any one think that the religious communities made only a small contribution to this work, it is enough simply to recall that Order priests voluntarily became companions of the secular priests and of the bishops in their suffering and labors. They have gone, more than in the past, into remote regions and, working with their usual ardour, have earned high praise (DSS n.1124).

But, the phenomenon of migration itself has given birth to new religious institutes with specific purposes of the pastoral care of migrants. Some of these important institutes are: Society of St. Raphael in Germany, Missionaries of St. Charles-Scalabrinians in Italy, the Missionary Society of St. Anthony of Padua in Italy, the Society of the Holy Angels in Godesberg, Germany, the Pious Society of St. Paul in Malta, the Society of Christ for Polish emigrants.¹²⁷

Contemplating the urgent needs of souls, the Council Decree *Christus Dominus*, n.35, reminds all the bishops about the possibility or better to say the opportunity to call the religious to participate in the various ministries of the diocese. We read as follows:

Especially in view of the urgent needs of souls and of the lack of diocesan clergy, those religious institutes which are not dedicated to a purely contemplative life may be called upon by the bishop to help in various pastoral ministries. The special character of each religious institute should be taken into consideration.

¹²⁶ For more detail cfr. V. De Paolis "Il Missionario per i Migranti: Carisma, Compiti e Preparazione", art. cit., pp. 116-182.

¹²⁷ Cfr. *Exsul Familia* historical section, in DSS nn. 1035-1134.

Some years later the same Pope Paul VI, in his *motu proprio Pastoralis Migratorum Cura*, again called the attention of bishops to the urgent need of the revision of the existing norms for the pastoral care of migrants and reminded them of the necessity of the collaboration of all Christian faithful in this particular field in the following words:

That is to say it is necessary to renew and improve the organization and the structure of the pastoral care for migrants so that it may usefully meld the manifold experiences of the past and the collaboration of all. For this purpose the bishops, on the basis of the various circumstances of time and place, can have recourse to some special forms of apostolate already confirmed in pastoral practice. And since the very vast field of apostolate in favor of migrant demands the proper understanding of all and the active union of all their forces, it is absolutely necessary that, in addition to the priests who are directly engaged in this ministry the religious and laymen should also collaborate in it, in unity of purpose. (DSS n.1977).

Speaking to the apostolic and pastoral creativity for the ministry of migrants the circular letter *Chiesa e Mobilità Umana* says:

With a suitable grounding, taking into account the particular demands of institutes of perfection, these fields of the apostolate are open to priests belonging to religious orders, congregations and secular institutes. The Council and the norms of application issued by the Holy See encourage and direct them (DSS n.2464).

In the light of the above mentioned *motu proprio*, *Pastoralis Migratorum Cura* the Instruction *De Pastoralis Migratorum Cura* also considers of great importance the work carried out in the field of migration both by institutes specifically aimed at the apostolate for emigrants and other institutes of perfection, as well as individual religious (DSS nn. 2112-2113, 2126). As a result the Instruction dedicated a special chapter for this purpose in which it treats the role of the religious in the area of human mobility and gives some particular norms for this structure. Therefore, it is opportune that we compare these norm with the canons of both Codes in order to see how these norms and canons are going hand in hand:¹²⁸

¹²⁸ CHARLES SCICLUNA, "La parrocchia personale e la missione con cura di anime affidate ai Religiosi", in *SCRIS Informationes* 2 (1989) 258-277.

i. The eparchial bishop can entrust apostolic work or duties pertaining to the eparchy to religious with the consent of the competent superiors; at the same time all their works and projects in favor of migrants are always subject to the Ordinary of the place.¹²⁹

ii. A juridical person may not be a parish priest. However, the diocesan Bishop, not Administrator, can, with the consent of the competent superior, entrust a parish to a clerical religious institute or to a clerical society of apostolic life, even by establishing it in the church of the institute or society, subject however to the rule that one priest be the parish priest or, if the pastoral care is entrusted to several priests jointly, that there be a moderator as mentioned in can. 517 §1.¹³⁰

iii. The entrustment of a parish, as in can. 520 §1 of CIC and can. 282 §1 of CCEO, may be either in perpetuity or for a specific time. In either case this is to be done by means of a written agreement made between the diocesan Bishop and competent Superior of the institute or society. This agreement must expressly and accurately define, among other things, the work to be done, the persons to be assigned to it and the financial arrangements.¹³¹

iv. In so far as it concerns the structures of the pastoral care which are not parishes or quasi-parishes, like the Mission with Care of Souls attached to a territorial parish, it is not assigned to the religious of the same institute, the can. 681 §2 of CIC and can. 415 §3 of CCEO foresees a written agreement in the ambit of general rule. But, the appointment of a religious or a chaplain of this mission is always done according to the agreement or to the norm of can. 681§2 of CIC; can. 415 §3.¹³²

But, it is noteworthy that in this document all are defined as *missionaries*, for the reason that the document goes in line with the missionary Decree *Ad Gentes*, in which a missionary is considered as the follower of Christ, *sequela Christi*, expressed not only in the *missio*, but in the practice of the evangelical counsel. It is the very feature of the portrait of the religious presented in the document itself.¹³³

¹²⁹ CCEO can. 415 §3; CIC can.681 §1; DSS, nn. 2114-2116.

¹³⁰ CIC can. 520 §1; CCEO cans. 281 §1, 282 §1); DSS, n. 2114.

¹³¹ CIC can. 520 §2; CCEO can. 282 §2; DSS, n. 2114.

¹³² DSS, n. 2116.

¹³³ Cfr. GIOVANNI SIMONETTO, *Gli Istituti di Perfezione e L'Emigrazione*, in *On the Move* 26 (1979) 113.

Today, the works of the many religious congregations and societies for the pastoral care of migrants are praiseworthy, as shown in the document itself. For this purpose the Church stipulated some norms for the smooth running of this work and because of the great number of religious missionaries. But compared to other countries, the presence of religious is lacking in the pastoral care of migrants in the Indian Churches, a pressing problem in the Indian churches, because of the internal and external migration. However, it is praiseworthy that some religious congregations have come forward to respond to this urgent problem, especially in the Syro-Malabar Church. Therefore, understanding the importance of this pastoral care, existing religious congregations of the Syro-Malabar Church have to come forward to respond the call of Vatican II or the Syro-Malabar Church itself has to give birth to new institutes or societies for this special purpose.

4.4.5. The Catholic *Christifideles* Migrants

The call of God to be in the Church is directed to all humankind without any exception. The Church is for mankind and is built up by mankind. The members do not constitute the Church but Christ does. These members have a genuine equality of dignity and action in the Church as Christ's faithful. But who are these *Christifideles*? The first part of the second book in the 1983 Code of Canon Law as well as the first title of the new Oriental Canon law gives its answer: they are those who are incorporated in Christ through baptism (CIC can. 204; CCEO can.7). By virtue of baptism, they share a common dignity as children of God and have been constituted as the people of God (LG n.9); for this reason they become the sharers in Christ's priestly, prophetic and kingly mission in their own manner.¹³⁴ Therefore, "there is in Christ and in the Church no inequality on the basis of race or nationality, social conditions or sex....(LG 32)." It is obvious that the faithful, be they migrants or not, have their rights and duties proper to their own state in the Church wherever they are, which should arise from their incorporation in Christ by means of baptism. In this way, they are made members of the People of God and participants in the salvific mission of Christ.

¹³⁴ CCEO cans. 7, 11; CIC cans. 208, 224.

4.4.5.1. Equality among Christian Faithful

Both Codes unanimously affirm the radical equality of all Christians through baptism (CIC can.208, CCEO can. 8). More specifically, equality is to be seen as a feature of the basic identity of every member of the Christian faithful, who shares in the same word and the same sacraments within a sole community. It is at the basis of the Christian faithful, of being the People of God and of having the rights and duties common to all. This fundamental element of both Codes, taken from *Lumen Gentium* n. 32, integrates two inseparable elements: dignity and activity in the building up of the Body of Christ. Both Codes maintain an equality of rights even when the action is not common to all but is different according to the state of each and his different ecclesial responsibilities¹³⁵; for example, the action of a bishop is substantially different from that of the laity or the religious, but this is a difference existing according to the state of each and his different ecclesial responsibilities.¹³⁶ In the lives of migrants, although this diversity is felt much more than among other people their equality in the Church cannot diminish.

Admittedly, there are various problems in the pastoral field of human mobility. Often, the pastors of the migrants forget the rights and equality of the migrants in the Church and consider them aliens in the local Churches. On the other hand, if local Churches are willing to give proper pastoral assistance to migrants, some pastors either neglect or do not really know how to provide adequate pastoral care proper to their special condition in the Church because migrants may belong to different Eastern Churches or come from different cultures, etc. So, with special concern and care we must provide for these people and treat them equally as the ordinary faithful in the Church. When we fail to give this extraordinary pastoral care, it will be a great loss for the Universal Church. From his long experience, Father J. Beyer wrote:

¹³⁵ Cfr. P.A. BONNET, "Il Diritto-Dovere Fondamentale del Fedele Migrante," in *On the Move* 39 (1983) 74.

¹³⁶ CARDINAL ROSALIO JOSÉ CASTILLO LARA, "Some General Reflections on the Rights and Duties of the Christian Faithful," in *Studia Canonica* 20 (1986) 29; J. BEYER, "The New Code of Canon Law and Pastoral Care for the People on the Move," in *Migration: Interdisciplinary Studies*, edited by Pontifical Commission for the Pastoral of Migrants and Itinerant Peoples, vol. I, Vatican City, 1985, pp. 162-163.

From a pastoral point of view the person on the move, the migrant who would be treated as a 'stranger', as a person in transit, or, not belonging to the ecclesial community established in a certain place, would today be denied the fundamental equality of which the council already spoke, is taken up and reaffirmed in can. 208. In spite having their own condition and their particular obligations, 'their cannot be inequality among Christians caused by a difference in race, nation, social condition or sex.'¹³⁷

4.4.5.2. Migrants' Duty-Right in the Church

When we are treating the subject of duty and right in the Church, it is proper to examine the subject of these rights, the ultimate basis of which is found in the Christian condition itself. There are a number of canons which provide an answer to this question. Particularly, can. 96 of CIC specifies how one becomes a "person" in the Church, a subject of rights and duties. The law also uses the term "Christian faithful" to refer to those who have been established among the People of God. Cans. 204 and 205 of CIC and cans. 7 and 8 of CCEO provide further details in keeping with the usage of Vatican II, which preferred this term "membership" in the Church as found in Pope Pius XII's encyclical on the Mystical Body.¹³⁸ Incorporation in Christ through baptism constitutes a "person" in the Church "with rights and duties which are proper to Christians" (CIC can. 96 and CCEO cans.7, 910 §1 and 920). Baptism constitutes the person as a subject of right.¹³⁹

Canons 204 and 205 of CIC and 7 and 8 of CCEO give greater detail on a Catholic as "person" in the Church who is the subject of these obligations and rights. These canons reaffirm the same principle of baptism, through which one becomes a "person" in the Church. However, baptism results not only in rights and duties as an individual person in the

¹³⁷ BEYER, "The New Code of Canon Law," art. cit., p. 162.

¹³⁸ Cfr. JAMES H. PROVOST, "Book II: The People of God," art. cit., p.118.

¹³⁹ There are various commentaries on can.96 of CIC which are equally applicable to cans. 7, 910 §1 and 920 of CCEO. Cfr. *Commento al codice di Diritto Canonico*, ed. Pio V. Pinto, Rome 1985, pp. 59-60; *The Code of Canon Law: A Text and Commentary*, ed. James A. Coriden, T.J. Green and D.E. Heintschel, New York, 1985, pp. 70-71; *The Code of Canon Law: A Text and Commentary*, pp. 123-124; *Codigo de Derecho Canonico, Edicion anotada*, ed. Pedro Lombardia and Juan Ignacio Arrieta Pamplona: EUNSA, 1983, pp. 110-111.

Church but also in relationship within the people of God. As a consequence, persons in the Church become sharers in Christ's priestly, prophetic and kingly functions. To be a Catholic requires the baptized person to be in full communion with the Catholic Church and joined with Christ in its visible structure by the bonds of profession of faith, sacraments and ecclesiastical governance. (can. 205 of CIC and can. 8 of CCEO).¹⁴⁰ When we speak about the right to ecclesial communion as stated in can. 209 of CIC and can. 12 of CCEO,¹⁴¹ it means the right of belonging to the Universal Church as well as one's own particular Church, very precisely one's own *Ecclesia sui iuris*. From this belonging, most of the rights flow. They are: the right of intelligent liturgy (CIC can. 213; CCEO can. 16); the right to participate in worship in accordance with the legitimate norms of one's own *Ecclesia sui iuris* and to follow one's form of spiritual life (CIC can. 214, CCEO can.17); the right and obligation to preserve everywhere one's own rite CCEO can. 403 §1; the right to receive the Word of God and the sacraments from pastors (CCEO can.16; CIC can. 213), and the like.

In addition to duty-right as mentioned above, the Church's laws recognize a variety of duties-rights pertaining to Catholics.¹⁴² Regarding human mobility and its impact on personal and communal Christian life, the duties and rights stated in the Codes are intrinsically of fundamental importance. They constitute a challenge to the whole Church: a challenge to implement, or vindicate where necessary, the rights in question; and a challenge to accountability in regard to responsibilities.¹⁴³ Reflecting on

¹⁴⁰ For can. 205, cfr. *Commento al Codice di Diritto Canonico*, op. cit., 109-114; *The code of Canon Law: A Text and Commentary*, op. cit., pp. 119-134.

¹⁴¹ CIC can. 209 §1 and CCEO can. 12 §1: "Christ's faithful are bound to preserve their communion with the Church at all times, even in their external actions."

§2 of both Codes: "They are to carry out with great diligence their responsibilities towards both the universal Church and the particular Church to which by law they belong".

¹⁴² GIUSEPPE DALLA TORRE, *Commento al Codice di Diritto Canonico*, op. cit., pp. 114-139; JAMES H. PROVOST, *The Code of Canon Law: A Text and Commentary*, op. cit., pp. 134-146; BEYER, "The New Code of Canon Law," art. cit., pp. 166-167.

¹⁴³ JAMES ESLER, "The New Code on the Laity: A Challenge to the Whole Church," in *The Australasian Catholic Record*, 60 (1983) 373.

these challenges, let us examine the various duties and rights envisaged by both Codes:

- i. The fundamental equality of all Christians based on baptism, and equality and dignity in action; the right and freedom to cooperate in building up the Body of Christ (CCEO can. 11; CIC can. 208).
- ii. An obligation to maintain communion with the Church (CCEO can. 12 §1; CIC can. 209 §1).
- iii. Duty and right to proclaim the divine message (CCEO can. 14; CIC can. 211).
- iv. Right to petition to have one's needs, especially spiritual needs met (CCEO can. 15 §1, CIC can. 212 §2); the right and duty to express one's opinion in the Church (CCEO can. 15 §3; CIC can. 212 §3).
- v. The right to associate for charitable or pious ends or for the promotion of Christian vocations (CCEO cans. 18, 26 §1; CIC can. 215).
- vi. The right to promote the apostolate and one's own proper initiative in apostolic work according to one's state and condition (CCEO can. 19; CIC can. 216).
- vii. The right to a Christian education (CCEO can. 20; CIC can. 217).
- viii. Academic freedom: the right to research and to publication (CCEO can. 21; CIC can. 218).
- ix. The right to choose a state in life (CCEO can. 22; CIC can. 219).
- x. The right to a good name and reputation (CCEO can. 23; CIC can. 220).
- xi. The right to vindicate one's rights in church court and to defend one's rights in church court (CCEO can. 24 §1; CIC can. 221 §1); with equity and in accordance with law (CCEO can. 24 §2; CIC can. 221 §2); the right to be judged according to the norm of law (CCEO can. 24 §3; CIC can. 221 §3).¹⁴⁴

¹⁴⁴ Actually the list of these fundamental rights has been firstly proposed by Prof. Pedro Lombardia in one of his article in *Concilium*. In this list none can find 15 fundamental rights. They are: a. diritto ai beni spirituali della chiesa e agli aiuti necessari per conseguire la salvezza (sacramenti, parola di Dio, ecc.); b. diritto di partecipare attivamente alla vita e ai fini della chiesa; c. diritto a una propria spiritualità; d. diritto al proprio rito; e. diritto all'esercizio integrale dei carismi personali; f. diritto alla libera realizzazione della propria vocazione ecclesiale (ministro sacro, laico, religioso); g. diritto al proprio apostolato; h. diritto di petizione alla gerarchia; i. diritto di manifestare liberamente e pubblicamente la propria opinione su materie che riguardano il bene comune della chiesa; j. diritto

More precisely we can say the migrant's duty-right in the Church is to reach God. It means to save himself without either repudiating or renouncing his own identity both as an individual and as a community *christifidelis*. In reality each one manages himself to live in Christ with the use of the same Word and same Sacrament within the ambit of a single ecclesial Communion, according to the limit of one's own culture,¹⁴⁵ because only through one's own cultural identity can a people live in the Church, making it truly and radically their own. Therefore, in order to settle in this environment and to grow adequately in God, the migrant faithful requires the ecclesial law to assure him of all the conditions, including structural one, that will allow him, in the special community context in which he must live, to develop his own talents and to foster unity within the People of God.¹⁴⁶

Therefore, the proclamation of fundamental rights within the Church cannot be taken as the concession or grant of the legislator, because these rights are inherent, intrinsic to being Christian. That is, the determinate rights and duties are prior to the determination of positive law. They are, in other words, consequential explicitations of *being Christian*, as for example, the right of maintaining communion, of conducting a holy life and the right to apostolic action; and, in general, those rights which express a participation in the threefold functions of Christ.¹⁴⁷

all'informazione; m. diritto all'educazione cristiana, anche la più specializzata; n. diritto alla giusta ricerca nel campo delle scienze sacre e alla divulgazione dei risultati; o. diritto all'insegnamento delle scienze sacre; p. diritto alla libera associazione ecclesiale; q. diritto alla giusta autonomia nel temporale. Cfr. PEDRO LOMBARDIA, *I Diritti Fondamentali dei Fedeli*, in *Concilium* 8 (1969) 108; cfr. also note 64 of DARIO COMPOSTA, *La Chiesa Visibile: La Realtà Teologica del Diritto Ecclesiale*, Tipografia Poliglotta Vaticano, 1985, p. 201. According to Prof. Dario Composta, all these rights derive from the "subjective right" (*ius subiectivum*). For detailed study of this argument, please cfr. DARIO COMPOSTA, *La Chiesa Visibile. La Realtà Teologica del Diritto Ecclesiale*, Tipografia Poliglotta Vaticana, Roma, 1985, pp. 195-201.

¹⁴⁵ P.A. BONNET, "The Fundamental Duty-Right of the Migrant Faithful," art. cit., p. 211.

¹⁴⁶ P.A. BONNET, "The Fundamental Duty-Right of the Migrant Faithful," art. cit., pp. 211-212.

¹⁴⁷ CASTILLO LARA, "Some General Reflections," art. cit., p. 20.

For a good definition of the fundamental rights of a Christian, Father Beyer quoted the declaration of the Fribourg Congress which says:

That of being at home everywhere in the Church, received everywhere as a brother among brothers, a right which makes all human barriers, differences in language, in nationality, in social condition, fall. These rights must be better affirmed by a Church confronted with such a pressing and delicate problem as migration.

And further:

"Right to an intelligible liturgy, right to a real and effective participation in the life of the Church of God, which is in Corinth, Ephesus, and Rome. A right which surpasses all national limits to be universal and an expression of the holy city which unites all its members in the same Divine Charity. All this must be defined and expressed in the fundamental rights of the Christian."¹⁴⁸

Conclusion

In our attempt to ascertain the specific pastoral care for the Syro-Malabar migrants, we tried to analyse various structures and offices given by both Codes of Canon Law. Vatican II, while calling Christ's establishment of the Church as a visible society, endowed with hierarchical structures, showed that the Church may not be separated from her reality as a spiritual and heavenly community of faith, hope and love (LG n. 8), because her social structure stands for the service of society. For the fulfilment of the various functions in this structure, as a society the Church must have the right to make laws and to see that the members of the society are obeyed. In turn, the members of the society are bound by an obligation in conscience to comply with these laws. In this way both groups, authorities and faithful, render service to God and His Church.

On the basis of this principle, especially for responding to the human mobility in the modern world, the Church provided various ecclesiastical structures and offices to answer the various needs of the migrant faithful. But, unfortunately these provisions are lacking today in the life

¹⁴⁸ "*La 'communio' comme critère des droits fondamentaux*" in the acts of the IVth Congress of Canon Law, Fribourg, 1983, quoted by Jean Beyer, "The New Code of Canon Law and Pastoral Care for People on the Move," art. cit., p. 164.

of the Syro-Malabar catholic migrants. As members of the Universal Church they have the same right to receive pastoral care as do all other members according to the tradition of each *Ecclesia sui iuris* in the Universal Church. We made use of this chapter to present the various ecclesiastical structures and offices envisaged by Vatican II and various documents of the Church, especially on the basis of *the sole Corpus Iuris Canonici*.

General Conclusion and Practical Suggestions

The call of God in the Church is directed to all people in the universe without exception. The acceptance of this call is realized in concrete through the reception of Baptism. By the virtue of baptism all share a common dignity as children of God and are constituted as the people of God (LG n. 9). This radical equality of the Christian faithful is univocally affirmed by both Codes of Canon Law (CIC can. 28; CCEO can. 9). In other words these two Codes maintain the equality of rights even when the action is not common to all. Therefore, there is in Christ and in Church no inequality on the basis of race or nationality, social conditions, sex, etc. (LG n. 32). Moreover it is obvious that there is no question about those faithful who are migrant and who have rights and duties proper to their own state in the Church wherever they are. They have the right to seek everywhere the use of the spiritual and material goods in order to reach their full perfection (GS n. 26).

Similarly, Churches enjoy radical equality (*pari pollent dignitate*); none of them ranks higher than the others by reason of rite (*ceteris praestet ratione ritus*), as stated in one of the conciliar documents. They have the same rights and obligations within the Universal Church (OE n. 3). Applying this principle to the Universal Church, all the *Ecclesiae sui iuris* have the equal right and obligation to intervene whenever and wherever their people are suffering. Then only will the words of the Holy Father carry their full intent. He said, "The Church has the right and the duty to intervene; ...wherever a man is suffering, there Christ suffers in his stead. Wherever a man is suffering, there the Church must be at his side".¹ They are the sons of the Church, members of the same body saved by the Saviour Jesus Christ, son of the same God and Father.

¹ On the Move 36 (1982) 141.

Again, the same Council strongly recommended to the Orientals that “they can and should preserve their legitimate liturgical rites and disciplines everywhere in the world” (OE n. 6) and for this purpose “each and every Catholic...should everywhere in the world retain his proper rite, cherish it and observe it to the best of his ability (OE n. 4). In this way only, as declared the Council, “Eastern churches may flourish and execute with new apostolic vigour the task entrusted to them (OE n. 1) and, therefore, “the multiplicity of the local churches with one common aspiration is particularly the splendid evidences of the catholicity of the undivided Church” (LG n. 23; OE n. 2; UR n. 16), which “in no way harms her unity, but rather manifest it (OE n. 2).

Today the manifestation of this catholicity particularly among the three Indian churches is well accepted and praised. The proclamation of Pope Paul VI is the best proof for this acceptance and admiration. In one of his addresses in Bombay he said, “the plurality of three traditions is a living witness to the catholicity of the Church of Christ.”² But the peaceful existence of these churches is often hindered and impeded by various reasons like self-interest, lack of knowledge about various traditions of the churches, lack of openness, cooperation, dialogue and charity. Problems such as the migratory phenomenon often widen this situation. As a consequence it leads migrants to break down and weaken or even lose the Christian faith instead of preserving their legitimate tradition or assisting the birth and growth of new churches in the new environment. Therefore, the achievement of this catholicity in its full sense is attained only through a complete openness towards others, a readiness to share and live in the same ecclesial communion. Aiming towards this goal Pope John Paul II wrote in his encyclical *Slavorum Apostoli*: “For full catholicity, every nation, every culture has its own part to play in the universal plan of salvation. Every particular tradition, every local Church must remain open and alert to the other churches and traditions and, at the same time, to universal and catholic communion; were it to remain closed on itself, it too would run the risk of becoming impoverished”(n. 27).³

² L'Osservatore Romano, 4 December 1964.

³ JOHN PAUL II, Enc. *Slavorum Apostoli*, AAS 77(1985)807-808.

The scope of this study is to expose the various possibilities envisaged by both Codes of Canon Law to provide pastoral care for Syro-Malabar catholic migrants, in the same way as for all other migrants within the Universal Church. To protect and preserve the rights of her migrants is the age-long desire of the Syro-Malabar Church and still continues in her life today. Meanwhile, she believes that her migrants are the best means for the proclamation of the Good News in the various parts of India. In this way she hopes that she can accomplish her two missions in the Universal Church, such as the preservation of her tradition and her growth in the Indian soil (OE n. 6) and the proclamation of the Good News to her fellow bretheren (Mk 16:15).

The history of the Syro-Malabar Church is really a thrilling and a very enthusiastic one, well-admitted by many church historians. Therefore, without knowing the early history of this church, we could not understand the present argument of the migration problem of the Syro-Malabar Church. For this reason in the first chapter we presented the history of the Syro-Malabar Church, especially from her origin, her growth and decline, and her struggles for the preservation of her identity and autonomy. After the erection of her hierarchy she made tremendous progress on all levels. Really her growth and dynamism is the envy of other churches, too. Admiring this dynamism and her apostolic vigour and ecclesial witness, Pope John Paul II said to her bishops in 1985, "The Universal Church needs your dynamism, your apostolic and ecclesial witness".⁴ Thus this acceptance remains as a well known proof for her apostolic activities at all levels for the edification of the building of God, the Church (LG n.6). Followed by this historical presentation of the Syro-Malabar Church we turned to analyze the phenomenon of migration.

As we know, today the migration movement is considered as a permanent phenomenon of human life. It stems from various causes and develops into various forms. Millions and millions of people are migrants, especially from developing countries. However, this human mobility is nothing new in the history of the mankind, for has been present in the life of man from very early times. But, at the present day we are

⁴ AAS 78 (1986) 618.

witnessing a great increase and significant acceleration in this movement in every country of the world.

When we examine the history of the Universal Church and the migratory movement we conclude that from the very beginning the Church has been deeply engaged in the movement of people. So many significant events that make up her history had to do with journeys and pilgrimages. Today she is still continuing this involvement through her migrant children. Moreover, she considers this movement as one of the important elements in the development of Christian faith and the birth and growth of the new Churches. Based on these facts we tried to analyze the influence of the phenomena of migration in the life of the Indian people, and especially among the Syro-Malabar Catholics. The migratory outpouring of these Syro-Malabar Catholics from their home country to other parts of India and abroad is still continuing without an end. As a consequence this great flow is continuously urging the Mother Church to extend her pastoral solicitude towards these children. She knows that in the Church we too are all on journey in search of our home land (Heb. 11:13-14). So her migrant children need appropriate pastoral structures and other means as do all other migrants in the Universal Church in order to fulfill their earthly pilgrimage to the kingdom of their Father (GS n.1). In the meantime, she is well aware of the dangerous situation of India, comprised of numerous cultures, languages, religious and superstitious beliefs, which can influence her migrant children. As a result she fears that in the middle of these realities they can lose everything they acquired and practiced from her and from their ancestors. To affirm the truthfulness of these arguments, we again presented various problems and challenges in the life of these migrants, the report and statistics of the apostolic visitor, the various interventions of her prelates particularly in the Synodal hall, together with the letter of Pope John Paul II to the bishops of India to find an amicable solution for this burning issue.

The purpose of the second chapter was intended to show the various developments of the concept of rite in the catholic Church. Formerly the word *Rite* was used in both ecclesiastical and secular fields; therefore, it received different meanings in the course of time. As a consequence there existed a confusion in the usage of the word *Rite* which continued until the promulgation of the new Oriental Code. Actually, with the promulga-

tion of the new Oriental Code the notion of the word *Ritus* and *Church* is clearly attested (CCEO cans. 27 & 28). Thus the age-long confusion about the concept of *Rite* was solved. As a result of this new development we understood that the terms *Rite* and *Church* are not synonymous nor are they interchangeable as in the past; an Oriental Church is no longer a *Rite* as in Apostolic Letter *Postquam Apostolicis Litteris* can. 303 §1,1 nor a ritual church as in CIC cans. 111 §1; 112 §1,3, etc. Pursuing this real concept of rite we tried to show how one can become a member of an *Ecclesiae sui iuris* and examined the existing differences between CIC and CCEO with regard to the acquisition of membership.

The existence of various *Ecclesiae sui iuris* shows the equality and communion within the Catholic Church (OE n. 3). It is visibly shown by the profession of the same faith, reception of the same sacraments and the communion with the same pastors. The presence of the three *Ecclesiae sui iuris* in India provides us the best example for this co-existence. Having seen the various aspects of the equality and communion within the Universal Church, we then examined the different structures of the *Ecclesiae sui iuris*. For historical and pastoral reasons patriarchs and patriarchal synods emerged in the East in the early centuries of the Church and later episcopal conferences took place in the West. In view of these different modes of the *Ecclesiae sui iuris* we further discussed briefly the different structures of the three Indian churches and how these organs render their ecclesial services within the same country in order to fulfill the various missions entrusted to them.

Our attempt in the third chapter was to study the various Church documents in relation to the phenomenon of migration both for Latin and for the Oriental migrants. We made an effort to go through various documents particularly in reference to the preservation of rite, because our migrants belong to one of the *Ecclesiae sui iuris*. Therefore, we divided this chapter into four different headings, each treated separately. They are:

- i. Documents regarding the pastoral care of Latin migrants.
- ii. Documents and Papal teachings regarding the Oriental migrants and of preservation of rite.

iii. Common documents for both Latin and Oriental migrants.

iv. Development of main canons of both 1983 Code of Canon Law and the new Oriental Code in view of the pastoral care of migrants.

An examination of the 1983 Code of Canon Law and the new Oriental Code is not possible without a detailed study of these documents. Above all, they are the main documents in the Church's legislation with regard to human mobility, from which both Codes of Canon Law has gathered its directives for the pastoral care of migrants.

Finally, in the fourth chapter we presented various ecclesiastical structures and offices in view of the specific pastoral care for Syro-Malabar catholic migrants. The necessity for specific pastoral care comes from the particular situations in which the migrants live. Because of the ritual, cultural and linguistic differences they are unable to make use of the ordinary pastoral care of the parish of the new residence. The pastoral care of the faithful, we know, is normally carried on through parish structures. The parish priest is the pastor of souls, who acts in the name of the Church and takes care of his faithful so that by means of his ministry they can live fully their Christian life. But, on the part of the migrants, this is not possible for various reasons: lack of knowledge of language of the new place, lack of priests or parishes of their Church of origin, difference of spiritual and cultural patrimony, lack of knowledge of the language on the part of the priests who serve, and lack of other suitable structures for the pastoral care of migrants. These situations lead migrants to spiritual abandonment. Therefore, this situation urges the Church for a "specific work" which requires "an authentic missionary dimension with an eminently spiritual purpose".⁵

From this perspective, with the development of the fourth chapter, we have presented various specific structures envisaged by both Codes of Canon Law for the pastoral care of migrants. The hierarchical structures have also been called for the service of mankind, particularly for migrant faithful at the universal, national, diocesan and parish levels. In this structural context, both Codes permit pastoral care of migrants at the

⁵ Cfr. V. DE. PAOLIS, *Il missionario per i migranti: carisma, compiti, e preparazione*, art. cit., p.158.

level of the Universal Church through the Roman Pontiff and various dicasteries of the Roman Curia. To confront the problem of Oriental migrants, like the problem of Syro-Malabar Catholic migrants, normally the Roman Pontiff acts through the Congregation for the Oriental Churches. This is affirmed in the Apostolic Constitution *Regimini Ecclesiae Universae* art. 44 and later in the Apostolic Constitution *Pastor Bonus*.

At the universal level, the most important measure foreseen by the new Code of Canon Law, and later, reaffirmed by the Apostolic Constitution *Pastor Bonus*, in favour of Syro-Malabar Catholic migrants, is the erection of particular Churches. Now, according to the Apostolic Constitution *Pastor Bonus* art. 59, it is the sole duty of the Congregation for Oriental Churches to implement the norm of the 1983 Code of Canon Law, can. 372 §2⁶ and to provide other appropriate measures for the good of the Oriental migrants.⁷ In addition, the concept of territory in both Codes, CIC and CCEO, is very different from the concept of the 1917 Code of Canon Law. Today the new criterion adopted by the Universal Church for the erection of particular Churches or eparchies and parishes is the concept of the People of God, not territory as such (CD nn. 11, 18, 23; OE n.4; po n. 10). Territory does not constitute an element in the erection of a new diocese or a parish, but is merely one of the diverse ways to determine a portion of the People of God.⁸

On the national level, the Episcopal Conferences of the Latin Church have the great task to implement the directives of the Universal Church on the basis of 1983 Code of Canon Law and the Instruction *De Pastoralis Migratorum Cura*. With regard to the Oriental Churches,

⁶ CIC can. 372 §2. "Attamen ubi de iudicio supremæ Ecclesiæ auctoritatis, auditis Episcoporum conferentiis quarum interest, utilitas id suadeat, in eodem territorio erigi possunt Ecclesiæ particularis ritu fidelium aliave simili ratione distinctæ".

⁷ Pastor Bonus, Art. 59. "Congregatio sedula cura item prosequitur communitates Christifidelium orientalium in circumscriptionibus territorialibus Ecclesiæ Latinae versantium, eorumque necessitatibus spiritualibus per Visitatores, immo, ubi numerus fidelium atque adiuncta id exigant, quatenus fieri possit, etiam per propriam Hierarchiam consulit, collatis consiliis cum Congregatione pro constitutione Ecclesiarum particularium in eodem territorio competenti."

⁸ Communicationes 2 (1969) 84; MÖRSDORF, *Decree on the Bishop's Pastoral Office in the Church*, art. cit., p. 230.

particularly for the Syro-Malabar Church, Major Archbishop and his Synod ought to move according to the directives given by the Holy See and of the new Oriental Code (CCEO cans. 78 §2, 110, 150 §§2 and 3).

On the diocesan level pastoral care is the most important pastoral structure in life of migrants. Here, it is the prime duty of the diocesan Bishop to find out and supply every means for the specific pastoral care for migrants, for example, to appoint episcopal vicars for migrants, to open special offices for migrants in the same diocesan curia, to find priests from migrants' *Ecclesiae sui iuris* according to the language and rite, to supply special faculties for priests including chaplains and missionaries for migrants, and to allot territorial and personal parishes or chapels for the liturgical services for the migrants.

On the parish level, the sole authority for the pastoral care of migrants is the pastor or parish priest. It is his duty to seek the pastoral care of the migrants according to their particular circumstances, because they are unable to get ordinary pastoral care from the parish of their arrival.

Some Practical Suggestions

Based on the various Church documents with regard to the pastoral care of migrants and various canons of both Codes, CIC and CCEO, we would like to propose some humble suggestions to respond to the need of the Syro-Malabar Catholic migrants who live in various parts of India outside of their homeland, Kerala.

i. On the Universal Level

In the name of the Roman Pontiff, the Congregation for the Oriental Churches should take serious steps in favour of Syro-Malabar Catholic migrants. As a competent dicastery, the Congregation for Oriental Churches should issue a Document similar to the Apostolic Constitution *Exsul Familia* or the Instruction *De Pastoralis Migratorum Cura*. This would be one of the best means to solve the existing problems for migrants not only in India but also for the migrants of all Oriental *Ecclesiae sui iuris* wherever the large majority may be living. The existing laws are not sufficient to cover the needs of every *Ecclesiae sui iuris*; therefore, this measure would be very useful for the non patriarchal

churches too. At the same time, according to the provisions given in the Council Decrees, the new Code of Canon Law and on the basis of the report of the Apostolic Visitor, from the Holy See can still erect dioceses for migrants where they are in substantial numbers. This already came into partial actuality when the Kalyan Diocese was established. Moreover, the Congregation for the Evangelization for the People should take some serious steps through Decrees or Instructions to solve this problem. As a mission territory the Congregation for the Evangelization for the People has the full competency regarding the Latin dioceses of India where the majority of Syro-Malabar migrants are living. There is also another possibility to avoid tensions in the Indian churches, that is, to issue a joint document for this purpose in the light of *Corpus Iuris Canonici* and the Instruction *De Pastoralis Migratorum Cura*. Besides, as a competent dicastery for the pastoral care of migrants, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People has to issue some new regulations in collaboration with the Congregation for the Oriental Churches and for the Evangelization for the People for the pastoral care of all migrants including the Orientals.

As a final solution, we may say, it is better to re-establish the All-India jurisdiction of the Syro-Malabar Church. It is well founded historically and canonically⁹ in the life of the Malabar Church. The Syro-Malabar Church is the continuation of the ancient Church founded by St. Thomas the Apostle. Despite adverse circumstances, she was always faithful to the Roman communion until the end of the 16th century. The metropolitan of the Malabar Church exercised jurisdiction over all of India even after the introduction of the Latin jurisdiction. The titles used by the metropolitans and their archdeacons show the extent of their territory and they were known as the Metropolitan or Archdeacon of All-India. On the basis of this historical background and its tradition, it is also good to see that one of the main intention of the Fathers of the Second Vatican Council is the preservation of traditions of each *ecclesia sui iuris*. Therefore, the decree on the Oriental Catholic Churches states: "For the Catholic Church wishes that the traditions of each individual church or rite be preserved in their integrity" (OE n.2). With regard to the

⁹ Cfr. Can. 372 §2 of CIC 1983; CD n. 23 §3; OE n. 4.

rights and privileges of the patriarchs of the Eastern Churches, the same decree again says: "This Synod, therefore, decrees that their rights and privileges be restored in accordance with the ancient traditions of each Church and the decrees of ecumenical councils" (OE n.9). In the light of these Council teachings, and considering present day mobility among the Syro-Malabar Catholics, is it not opportune to restore the ancient jurisdiction of the Syro-Malabar Church and the power of her Major Archbishop over all India?

ii. On the National Level

On the national level, the Episcopal Conference of the Latin Church must pay energetic attention in this regard, especially in the light of Council Decree *Christus Dominus* n.18 and the Instruction *De Pastoralis Migratorum Cura* chapter III. So far, as we know, there is no particular legislation issued by the Latin Bishops' Conference of India, except some initiatives of a very few bishops. Pope John Paul II's letter shows the lack of the specific pastoral activities on the part of the Episcopal Conference of the Latin Church. Therefore, the Latin Bishops' Conference of India should constitute various structures envisaged by the Instruction *De Pastoralis Migratorum Cura* not only for their migrants but also for the migrants of the Syro-Malabar and Malankara Churches.

The Syro-Malabar Church also has to take some initiatives, for example, to train both religious and diocesan priests for this specific pastoral care, to send priests according to the needs of the different Episcopal Conferences, to appoint a national director for coordinating the work regarding the pastoral care of migrants, to appoint diocesan directors for every diocese to look out for and prepare the migrants. All these structures are lacking in the Syro-Malabar Church at the present time.

iii. On the Diocesan Level

It is the duty and primary responsibility of the local Ordinaries to provide the appropriate means for the pastoral care of the Syro-Malabar Catholic migrants as envisaged by the 1983 Code of Canon Law and the Instruction *De Pastoralis Migratorum Cura*. For this special pastoral care the Ordinaries have to appoint an episcopal vicar for Syro-Malabar Catholic migrants, to start a special office in the diocesan curia, to invite

priests from the Syro-Malabar Church, to constitute various parochial structures in the diocese such as personal parishes, mission with Care of Souls, chaplain for migrants, etc. In this way they can fulfill their obligation towards God and the Syro-Malabar Church migrants. Otherwise, “they shall one day give an account to God regarding the fulfillment of their duty” as stated in the Instruction *De Pastoralis Migratorum Cura*’.¹⁰

In this way, we hope that, with the help of various structures within the same territory of other particular churches, the Syro-Malabar Church can fulfill the dreams of the Second Vatican Council Fathers and, together with other Oriental churches “she may flourish and execute with the apostolic vigour the task entrusted to her,” (OE n.1) particularly outside her homeland.

¹⁰ DSS, n. 2058.

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